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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION) No. 17-md-2804
OPIATE LITIGATION NO. 2804)
)
APPLIES TO ALL CASES) Hon. Dan A. Polster
)

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

VIDEO DEPOSITION OF DEMIR BINGOL

January 17, 2019
9:05 a.m.

Reporter: Mark Arndt, CSR, CCR, RPR
CSR No. 084-004711
CCR No. 1398

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<p style="text-align: center;">Page 2</p> <p>1 DEPOSITION OF DEMIR BINGOL produced, 2 sworn, and examined on January 17, 2019, at Goodell, 3 DeVries, Leech & Dann LLP, 1001 Market Street, Suite 3700, in the City of Philadelphia, State of Pennsylvania, before Mark Arndt, a Certified Shorthand Reporter and Certified Court Reporter.</p> <p>4</p> <p>5 APPEARANCES OF COUNSEL</p> <p>6</p> <p>7 On Behalf of Plaintiffs: Seeger Weiss LLP 77 Water Street, 8th Floor New York, NY 10005 (212) 584-0780</p> <p>8 BY: MS. JENNIFER SCULLION jsullivan@seegerweiss.com</p> <p>9 MS. ERICA KUBLY ekubly@seegerweiss.com</p> <p>10</p> <p>11 On Behalf of Tennessee plaintiffs: Branstetter Stranch & Jennings, PLLC 223 Rosa L. Parks Avenue Nashville, TN 37203 (615) 254-8801</p> <p>12 BY: MR. BENJAMIN A. GASTEL beng@bsjfirm.com</p> <p>13</p> <p>14 On Behalf of Walmart: Jones Day 555 California Street, 26th Floor San Francisco, CA 94104 (415) 626-3939</p> <p>15 BY: MS. TAYLOR A. GOODSPED tgoodspeed@jonesday.com</p> <p>16</p> <p>17 On Behalf of AmerisourceBergen: Jackson Kelly PLLC 175 East Main Street Lexington, KY 40507 (859) 288-2805</p> <p>18 BY: MS. M. JANE BRANNON mjbrannon@jacksonkelly.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: center;">Page 4</p> <p>1 APPEARANCES OF COUNSEL (CONTINUED)</p> <p>2</p> <p>3 Also present: Devyn Mulholland, videographer Daniel Brown, technician Sabrian Tyjer, paralegal</p> <p>4</p> <p>5 INDEX OF INTERROGATION</p> <p>6 Examination by Ms. Scullion Page 9 Examination by Mr. Gastel Page 280</p> <p>7 Examination by Mr. Limbacher Page 320 Examination by Ms. Scullion Page 329</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: center;">Page 3</p> <p>1 APPEARANCES OF COUNSEL (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Endo Pharmaceuticals: Endo Pharmaceuticals 1400 Atwater Drive Malvern, PA 19355 (484) 216-6813</p> <p>4 BY: MS. CAROLYN M. HAZARD hazard.carrie@endo.com</p> <p>5</p> <p>6 On Behalf of Cardinal Health: Pietragallo Gordon Alfano Bosick & Raspanti, LLP 1818 Market Street, Suite 3402 Philadelphia, PA 19103 (215) 988-1464</p> <p>7 BY: MR. DOUGLAS K. ROSENBLUM dkr@pietragallo.com</p> <p>8</p> <p>9 On Behalf of UCB, Inc.: Hughes Hubbard & Reed LLP 2345 Grand Boulevard 10 Kansas City, MO 64108 (816) 709-4100</p> <p>11 BY: MS. TINA M. SCHAEFER tina.schaefer@hugheshubbard.com (present via speakerphone)</p> <p>12</p> <p>13 On Behalf of Gemini Laboratories: Ulmer & Berne, LLP 65 East State Street Columbus, OH 43215 (614) 365-4500</p> <p>14 BY: MS. SARAH M. BENOIT sbenoit@ulmer.com (present via speakerphone)</p> <p>15</p> <p>16 On Behalf of Demir Bingol: Goodell, DeVries, Leech & Dann, LLP 2001 Market Street, Suite 3700 Philadelphia, PA 19103 (267) 765-3600</p> <p>17 BY: MR. ROBERT A. LIMBACHER rlimbacher@gldlaw.com</p> <p>18 MR. ADAM S. TOLIN atolin@gldlaw.com (present via speakerphone)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: center;">Page 5</p> <p>1 INDEX OF EXHIBITS</p> <p>2</p> <p>3 Exhibit Endo-Bingol-001 Page 14 (Notice of deposition)</p> <p>4 Exhibit Endo-Bingol-002 Page 14 (Subpoena)</p> <p>5 Exhibit Endo-Bingol-003 Page 23 (E-mail with résumé attached)</p> <p>6 Exhibit Endo-Bingol-004 Page 23 (Résumé)</p> <p>7 Exhibit Endo-Bingol-005 Page 24 (E-mail with résumé attached)</p> <p>8 (PPLPC012000412133 - PPLPC012000412137)</p> <p>9 Exhibit Endo-Bingol-006 Page 75 (E-mail with attachments)</p> <p>10 (E1396.1 - E1396.26)</p> <p>11 Exhibit Endo-Bingol-007 Page 84 (Endo Pharmaceuticals business plan)</p> <p>12 (E0329.1 - E0329.67)</p> <p>13 Exhibit Endo-Bingol-008 Page 88 (Building the OPANA ER Story)</p> <p>14 Exhibit Endo-Bingol-009 Page 99 (Risk minimization action plan)</p> <p>15 (E0554.1 - E0554.46)</p> <p>16 Exhibit Endo-Bingol-010 Page 113 (OPANA brand advisory board meeting transcript)</p> <p>17 (E1379.1 - E1379.75)</p> <p>18 Exhibit Endo-Bingol-011 Page 146 (Pain Medicine)</p> <p>19 (E0977.1 - E0977.57)</p> <p>20 Exhibit Endo-Bingol-012 Page 156 (E-mail with attachments)</p> <p>21 (E0520.1 - E0520.150)</p> <p>22</p> <p>23</p> <p>24</p>

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<p>1 times, beginning with the earliest, what was the nature 2 of the litigation?</p> <p>3 A. Usually in relation to op -- a generic 4 settlement suit. I've been deposed several times for 5 that and also once as an expert witness in a suit, 6 although I can't recall the exact -- it was many years 7 ago -- the exact nature of that particular action.</p> <p>8 Q. Can we start with the expert witness 9 deposition? That's how you characterize it; right?</p> <p>10 A. That's -- yes.</p> <p>11 Q. Okay. Was that when you were employed by 12 Endo?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Do you recall anything about what 15 you testified about in terms of being an expert 16 witness?</p> <p>17 A. I recall being in court that day and being 18 asked a lot of questions, but then we had reached a 19 settlement -- I think Endo had reached a settlement 20 with the plaintiff very soon thereafter, so it was -- 21 that's what I really recall. It was a suit between I 22 guess Endo and other generic manufacturers.</p> <p>23 Q. Do you know with regard to what product?</p> <p>24 A. Opana ER.</p>	<p>1 A. I don't recall the questions at this point 2 or what they were probing for. It's been many years, 3 maybe over 10 years now.</p> <p>4 Q. So that was your in-court testimony. Also 5 said you had testified in depositions in the context of 6 a number of, you said, generic settlement suits.</p> <p>7 A. Correct.</p> <p>8 Q. What do you mean by generic settlement 9 suits?</p> <p>10 MR. LIMBACHER: Let me just caution the 11 witness not to disclose any privileged communications 12 that you had with counsel in connection with any of 13 your prior testimony. I'm happy to have you answer 14 questions from counsel, but in doing so, just be 15 careful not to inadvertently disclose any privileged 16 communications.</p> <p>17 A. The nature of the lawsuits, I guess, were 18 focused on whether or not the settlements that Endo had 19 reached with generic manufacturers was appropriate or 20 not.</p> <p>21 Q. (By Ms. Scullion) These were antitrust 22 lawsuits?</p> <p>23 A. I guess they might have been considered 24 that. I don't know for sure the -- again, the legal.</p>
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<p>1 Q. Was it a patent lawsuit?</p> <p>2 A. I don't recall the specifics.</p> <p>3 Q. So you testified in court. So it wasn't a 4 deposition? It was actually in court?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. Was that before the Federal Trade 7 Commission?</p> <p>8 A. No. This was in New Jersey.</p> <p>9 Q. And you say you testified as an expert 10 there. Do you recall what areas you offered expert 11 testimony on?</p> <p>12 A. Just my functional role. Marketing.</p> <p>13 Q. When -- do you know -- were you actually 14 classified as an expert in that case? Were you offered 15 as an expert?</p> <p>16 A. I'm not sure of the exact technical term. 17 That's how I recall it.</p> <p>18 Q. Okay.</p> <p>19 A. I don't know what designation, legal 20 destination, there was, but I was there to provide that 21 particular, I guess, marketing expertise, and that's 22 why I think I was selected for that.</p> <p>23 Q. Do you recall what you testified about 24 with respect to Opana ER specifically?</p>	<p>1 Q. Okay. And these were all in connection 2 with settlements of patent litigation over Opana ER?</p> <p>3 A. Yes.</p> <p>4 Q. Were any of them with respect to 5 settlement of litigation for generic Oxycodone?</p> <p>6 A. I don't think so. Not to my knowledge.</p> <p>7 Q. Okay. Other than what you've described, 8 the testimony with respect to generic settlement suits 9 for Opana ER, your in-court testimony in New Jersey, 10 any other testimony you've given?</p> <p>11 A. Yes. The Federal Trade Commission.</p> <p>12 Q. And that was in the Impax proceeding?</p> <p>13 A. Yes, I think that's correct.</p> <p>14 Q. Any other testimony?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Did you give any testimony before the New 17 York attorney general in connection with an 18 investigation of Opana -- Endo's marketing and 19 promotion of Opana ER?</p> <p>20 A. No.</p> <p>21 MS. SCULLION: Can I have the -- 22 deposition --</p> <p>23 Q. (By Ms. Scullion) I'm going to hand you 24 what's been marked as Exhibits 1 and 2. And Exhibit 1</p>

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<p>1 is a copy of the notice of deposition of Demir Bingol, 2 and Exhibit Number 2 is a copy of a subpoena to testify 3 at deposition in a civil action. Have you seen Exhibit 4 Number 1 before?</p> <p>5 [Exhibit Endo-Bingol-001 marked for 6 identification.]</p> <p>7 [Exhibit Endo-Bingol-002 marked for 8 identification.]</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Do you understand that you're here 11 today to testify pursuant to -- strike that. Have you 12 seen Exhibit 2 as well, the subpoena?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And do you understand that you're 15 here today to testify pursuant to the subpoena, Exhibit 16 Number 2?</p> <p>17 A. Yes.</p> <p>18 Q. If you look, Exhibit Number 2 at the 19 bottom half of the page says production. Do you see 20 that?</p> <p>21 A. Yes.</p> <p>22 Q. And it calls for certain documents to be 23 produced. Were you asked to search your documents 24 prior to coming to today's deposition?</p>	<p>1 Q. Okay. At your house?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Search anywhere else?</p> <p>4 A. No. That's where I keep all of my files.</p> <p>5 Q. You don't have any paper files that relate 6 to your work at Endo?</p> <p>7 A. No.</p> <p>8 Q. Just to make sure that we're all on the 9 same page, your job at Endo involved promotion and 10 marketing of various drug products; correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And from time to time there were 13 promotional materials that were created in connection 14 with those efforts; right?</p> <p>15 A. Yes.</p> <p>16 Q. Brochures, slim gens (ph)?</p> <p>17 A. Yes.</p> <p>18 Q. Maybe little premium materials like pens, 19 these kind of things? Do you have any of those 20 materials still in your possession at home?</p> <p>21 A. No.</p> <p>22 Q. Okay. Thanks. You searched on your 23 desktop. Did you just search your hard drive files, or 24 did you also search, for example, e-mails?</p>
<p style="text-align: center;">Page 15</p> <p>1 MR. LIMBACHER: Let me just caution the 2 witness not to disclose privileged communication. I'll 3 allow him to answer that question with a yes or no, 4 assuming we have an understanding that it's not going 5 to be deemed a waiver of privilege.</p> <p>6 MS. SCULLION: That's fine.</p> <p>7 A. Yes.</p> <p>8 Q. (By Ms. Scullion) Okay. And before we go 9 on, are you represented by counsel today?</p> <p>10 MR. LIMBACHER: Yes, he is.</p> <p>11 A. Yes.</p> <p>12 Q. (By Ms. Scullion) And Mr. Limbacher is 13 your counsel?</p> <p>14 A. Yes.</p> <p>15 MR. LIMBACHER: Yes.</p> <p>16 Q. (By Ms. Scullion) When were you first 17 asked to search for documents in connection with the 18 deposition?</p> <p>19 A. Tuesday.</p> <p>20 Q. And where did you look for documents?</p> <p>21 A. On my personal computer.</p> <p>22 Q. A laptop or a -- is it a desktop or 23 laptop?</p> <p>24 A. It's a desktop.</p>	<p style="text-align: center;">Page 17</p> <p>1 A. My hard drive files.</p> <p>2 Q. And did you find documents there 3 responsive to the subpoena?</p> <p>4 A. Yes.</p> <p>5 Q. And were those all provided to counsel?</p> <p>6 A. Yes.</p> <p>7 MS. SCULLION: Counsel, have those all 8 been produced to us at this time, or are there any that 9 have been withheld for any reason?</p> <p>10 MR. TOLIN: My understanding is they've 11 all been produced, every one.</p> <p>12 MS. SCULLION: And that was the Tuesday 13 evening production?</p> <p>14 MR. TOLIN: Correct.</p> <p>15 MS. SCULLION: And just so we're clear, 16 those are the ones that are Bates-stamped beginning 17 with Bingol?</p> <p>18 MR. TOLIN: I don't know the Bates 19 labeling of it, but my understanding is each document 20 that Mr. Bingol provided to us was produced Tuesday 21 night.</p> <p>22 MS. SCULLION: Okay.</p> <p>23 Q. (By Ms. Scullion) Mr. Bingol, we'll show 24 you some of those documents. Why did you have</p>

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<p style="text-align: center;">Page 18</p> <p>1 Endo-related documents still on your desktop as of 2 Tuesday night -- Tuesday?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. Just a collection over, you know, my 5 career there. If I worked from home periodically, I 6 might collect a document here or there. I might 7 intentionally keep something I created that I thought 8 might be professionally useful to refresh my memory on 9 how I created a model or, you know, maybe a template 10 or, you know, some -- more for professional reasons. 11 But those are documents that I haven't even thought or 12 touched, to be honest with you, in the last eight years 13 or more. They just happened to be there, and when I 14 was asked to double-check, quite frankly I was 15 surprised at what I still had, and so I surprised 16 everything I had.</p> <p>17 Q. (By Ms. Scullion) Had you been asked to 18 search before Tuesday?</p> <p>19 A. No.</p> <p>20 Q. You said double-check. You sound like 21 somebody had asked you before and you were 22 double-checking.</p> <p>23 A. Well, they asked on Tues --</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 20</p> <p>1 documents there. The subpoena does call for them. I 2 think as the witness has made clear, from time to time 3 there are documents remaining that the witness may not 4 even be remembering right now, so we're going to need 5 to have those searched for and produced.</p> <p>6 Q. (By Ms. Scullion) Have you used any other 7 personal e-mail accounts other than a Hotmail account?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. No.</p> <p>10 Q. (By Ms. Scullion) When you searched for 11 documents responsive to subpoena, Exhibit 2, did you 12 search only for documents that concerned your work for 13 Endo?</p> <p>14 A. Yes.</p> <p>15 Q. Did you search for whether there were any 16 documents with respect to your work for Grunenthal?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. No.</p> <p>19 Q. (By Ms. Scullion) Am I correct that your 20 work at Grunenthal has involved at least one opioid 21 product -- that would be a reformulated version of 22 Opana ER? Is that correct?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. Not necessarily. I'm not directly</p>
<p style="text-align: center;">Page 19</p> <p>1 A. Excuse me. They asked for -- if I had any 2 documents, and I thought about it. I said I may have 3 one or two. They said, please go double-check.</p> <p>4 MR. LIMBACHER: I would caution the 5 witness again -- and I know counsel is not trying to 6 get into our communications -- but communications with 7 counsel, Mr. Bingol, I'll remind you, are privileged, 8 and she's not entitled to get into the substance of 9 those communications.</p> <p>10 Q. (By Ms. Scullion) I think I understand. 11 Did you make any effort on Tuesday to look through your 12 personal e-mails to see if there are responsive 13 documents there?</p> <p>14 A. No.</p> <p>15 Q. You have from time to time used a personal 16 Hotmail account; correct?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. Correct.</p> <p>19 Q. (By Ms. Scullion) And you've used that in 20 connection with your professional endeavors; correct?</p> <p>21 A. Correct.</p> <p>22 MS. SCULLION: Counsel, we are going to 23 ask that Mr. Bingol be asked to search through his 24 Hotmail account to see if there's any responsive</p>	<p style="text-align: center;">Page 21</p> <p>1 involved in the formulation of that product, and my 2 role at Grunenthal is business development and 3 licensing.</p> <p>4 Q. (By Ms. Scullion) And that licens -- the 5 business development and licensing includes the 6 relationship that Grunenthal at least had with Endo 7 with respect to their formulated version of Opana ER; 8 correct?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. Early on I would be liaising with Endo for 11 about maybe the first 18 months or so, but it's been 12 probably three-and-a-half years or so since I've had 13 any contact really with Endo --</p> <p>14 Q. (By Ms. Scullion) Okay.</p> <p>15 A. -- on anything related to the product.</p> <p>16 Q. And so I understand then you would not 17 have searched your -- you did not search your desktop 18 to see if you had any documents relating to that work 19 liaising with Endo; correct?</p> <p>20 MR. LIMBACHER: Object to form. Counsel, 21 it appears the request is specific to employment with 22 Endo, unless I'm misreading it.</p> <p>23 Q. (By Ms. Scullion) If you could answer the 24 question. Did you in fact search for any documents</p>

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<p style="text-align: center;">Page 22</p> <p>1 relating to your work liaising with Endo concerning the 2 license on the reformulated version of Opana ER?</p> <p>3 MR. LIMBACHER: Object to form. Asked and 4 answered.</p> <p>5 Q. (By Ms. Scullion) Please answer.</p> <p>6 A. No, I wasn't aware that I had to.</p> <p>7 Q. Okay. And because counsel raised it, I'm 8 looking at Exhibit Number 2, the last page, which is 9 the second page of Attachment A listing the documents 10 requested. And Paragraph 2 refers to all documents 11 concerning the sale, promotion, marketing, 12 distribution, efficacy, adverse effects, abuse, misuse, 13 diversion, or regulation of, risk associated with, 14 indications for, or education, medical guidelines, or 15 public policies concerning any opioid product other 16 than your personal health records.</p> <p>17 MS. SCULLION: So we do not believe that 18 the subpoena was limited to his work for Endo.</p> <p>19 MR. LIMBACHER: I'd point out that 20 Paragraph Number 1 and -- under documents requested, 21 Paragraph Number 1, under tangible things requested, is 22 specifically limited to documents and things concerning 23 his employment with Endo.</p> <p>24 MS. SCULLION: That's true -- the tangible</p>	<p style="text-align: center;">Page 24</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. And we'll represent that counsel 3 did provide it to us just before the deposition 4 started.</p> <p>5 MS. SCULLION: Can we have E1452, please?</p> <p>6 Okay, my apologies for skipping 3 altogether.</p> <p>7 Q. (By Ms. Scullion) I'm going to hand you 8 what's been marked as Exhibit Number 5. Exhibit Number 9 5 is marked in the lower right-hand corner PPLPC 10 012000412133, and we have marked it as E1452 right 11 above that. Mr. Bingol, do you recognize Exhibit 12 Number 5?</p> <p>13 [Exhibit Endo-Bingol-005 marked for 14 identification.]</p> <p>15 MR. LIMBACHER: Take your time to review 16 the document.</p> <p>17 A. I do.</p> <p>18 Q. (By Ms. Scullion) And what is it?</p> <p>19 A. It's a copy of my CV.</p> <p>20 Q. Is it a copy of an e-mail attaching your 21 CV that you sent to Russell Gasdia at Purdue in March 22 of 2013?</p> <p>23 A. Yes.</p> <p>24 Q. At the time you were applying for a</p>
<p style="text-align: center;">Page 23</p> <p>1 things. The documents requested is broader, and we 2 request that he search his files for such materials and 3 they be produced.</p> <p>4 MR. LIMBACHER: Grunenthal has produced 5 documents in the litigation; am I correct?</p> <p>6 MS. SCULLION: I am not going to get into 7 a colloquy about it. We issued a subpoena to the 8 witness and we request the documents be produced from 9 his files, if they are there.</p> <p>10 MR. LIMBACHER: We understand your request 11 and we'll take it under advisement.</p> <p>12 MS. SCULLION: Can we have his CV?</p> <p>13 Thanks.</p> <p>14 Q. (By Ms. Scullion) Do this slightly out of 15 order. This is Exhibit Number 4. We'll get back to 16 Number 3, I promise. Exhibit Number 4, Mr. Bingol -- 17 can you identify it, please?</p> <p>18 [Exhibit Endo-Bingol-003 marked for 19 identification.]</p> <p>20 [Exhibit Endo-Bingol-004 marked for 21 identification.]</p> <p>22 A. It's a résumé.</p> <p>23 Q. This is a copy of a résumé that you 24 brought with you today to the deposition; correct?</p>	<p style="text-align: center;">Page 25</p> <p>1 position with Purdue as VP of marketing; is that 2 correct?</p> <p>3 A. I was hoping to apply. I didn't get very 4 far in the process.</p> <p>5 Q. Okay. You were submitting your résumé for 6 consideration?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. If you'll turn to the last page of 9 your résumé, E1452.5. List there your education. So 10 if I understand correctly, you had an undergraduate 11 degree in marketing. Correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. And then an MBA with a marketing 14 concentration; correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. Fair to say you do not have a 17 science -- a formal science degree; correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And just looking through your employment 20 history, start off at the American Heart Association in 21 1991, and I assume that you had no involvement there 22 with controlled substances marketing?</p> <p>23 A. No.</p> <p>24 Q. Okay. Moved on to AstraZeneca from 1996</p>

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<p style="text-align: right;">Page 26</p> <p>1 to 2002; correct?</p> <p>2 A. That's correct.</p> <p>3 Q. And your experience there, again, did not</p> <p>4 relate to any opioid products; correct?</p> <p>5 A. Correct.</p> <p>6 Q. And no pain products; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Moved on to aaiPharma in 2002-2004. There</p> <p>9 did you have any responsibilities in connection with</p> <p>10 any pain products?</p> <p>11 A. Yes.</p> <p>12 Q. What were those?</p> <p>13 A. Was propoxyphene as a molecule, either</p> <p>14 alone or in combination with acetaminophen. The brand</p> <p>15 was Darvon or Darvocet.</p> <p>16 Q. Is propoxyphene an opioid?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know if it's a Schedule II</p> <p>19 substance?</p> <p>20 A. No, it was not.</p> <p>21 Q. It was a Schedule III or IV?</p> <p>22 A. It was a IV, I think, but it's since been</p> <p>23 withdrawn from the market.</p> <p>24 Q. Okay. And then your next position was</p>	<p style="text-align: right;">Page 28</p> <p>1 didn't have a lot of the same concerns, and not</p> <p>2 necessarily 100 percent attuned to that topic as such,</p> <p>3 but of course in pain management this becomes an</p> <p>4 obvious topic over time.</p> <p>5 Q. (By Ms. Scullion) Okay. And you said you</p> <p>6 didn't have the same concerns at aaiPharma. What did</p> <p>7 you understand the concerns were with respect to, for</p> <p>8 example, OxyContin?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. Just that in general Schedule IIs are</p> <p>11 more -- they have a higher risk profile than, say, a</p> <p>12 Schedule III or Schedule IV, and OxyContin belonging in</p> <p>13 that class had those effects or adverse events,</p> <p>14 safety risks, associated with Schedule II products.</p> <p>15 Q. (By Ms. Scullion) When you say a higher</p> <p>16 risk profile, risks of what? What type of risk</p> <p>17 specifically?</p> <p>18 A. There are a number of risks associated</p> <p>19 with scheduled narcotics and Schedule II in particular.</p> <p>20 Risk of abuse, misuse, and diversion, risk of</p> <p>21 respiratory depression and other serious adverse</p> <p>22 events, and then there are those that are maybe more</p> <p>23 transient adverse events, just like the</p> <p>24 gastrointestinal upset or things that you --</p>
<p style="text-align: right;">Page 27</p> <p>1 with Adolor from 2004-2006, and again, there did you</p> <p>2 have responsibilities for any opioid products?</p> <p>3 A. No.</p> <p>4 Q. What products were you -- did you have</p> <p>5 responsibilities for?</p> <p>6 A. It was -- we were developing a product</p> <p>7 called alvimopan, which was a new antagonist, whereas</p> <p>8 opioid is a new agonist. This is a new antagonist to</p> <p>9 block the effect of the opioid in the GI tract to help</p> <p>10 mitigate some of the adverse events of opioid</p> <p>11 medications.</p> <p>12 Q. Okay. From your experience at aaiPharma</p> <p>13 and Adolor, did you begin to have some familiarity with</p> <p>14 the prescription opioids marketplace?</p> <p>15 MR. LIMBACHER: Object to form.</p> <p>16 A. Yes.</p> <p>17 Q. (By Ms. Scullion) And you had started at</p> <p>18 aaiPharma 2002. At that time did you become familiar</p> <p>19 with certain concerns in the marketplace about abuse,</p> <p>20 diversion of prescription opioids stemming, for</p> <p>21 example, from the experience with OxyContin?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. Somewhat. The segment of the market we</p> <p>24 were competing in was not the same scheduling and</p>	<p style="text-align: right;">Page 29</p> <p>1 byproduct -- let's say adverse events just from taking</p> <p>2 the drug appropriately.</p> <p>3 Q. You said abuse, misuse, diversion. Is</p> <p>4 addiction also a risk?</p> <p>5 MR. LIMBACHER: Object to form.</p> <p>6 A. Yes.</p> <p>7 Q. (By Ms. Scullion) And were there</p> <p>8 particular concerns about how those risks have been</p> <p>9 addressed in Purdue's marketing of OxyContin?</p> <p>10 MR. LIMBACHER: Object to form and</p> <p>11 foundation.</p> <p>12 A. I can't speak to Purdue's marketing and</p> <p>13 what they did or didn't do. I was never employed</p> <p>14 there.</p> <p>15 Q. (By Ms. Scullion) Well, between 2002 and</p> <p>16 2006 in your time at aaiPharma and Adolor, did you come</p> <p>17 to learn, for example, about a government</p> <p>18 accountability office report, a federal GAO report,</p> <p>19 examining Purdue's marketing of OxyContin?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. I don't recall if I -- I don't recall</p> <p>22 that.</p> <p>23 Q. (By Ms. Scullion) Do you recall it even</p> <p>24 in the media, in the news, there being concerns about</p>

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<p style="text-align: center;">Page 30</p> <p>1 OxyContin and developing widespread abuse of OxyContin?</p> <p>2 A. I don't recall when I became sensitized to</p> <p>3 that topic, whether it was at Adolor or aaiPharma or</p> <p>4 even when I start at Endo. I -- certainly I</p> <p>5 became aware over time, but I just don't know when --</p> <p>6 Q. Fair enough. You say at some point you</p> <p>7 became aware. Tell me what you recall being aware of.</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. Just the safety concerns and the risks of</p> <p>10 OxyContin as a long-acting opioid.</p> <p>11 Q. (By Ms. Scullion) Were there particular</p> <p>12 concerns about the way that OxyContin had been marketed</p> <p>13 by Purdue?</p> <p>14 MR. LIMBACHER: Object to form. Asked and</p> <p>15 answered.</p> <p>16 Q. (By Ms. Scullion) Did you become aware of</p> <p>17 those?</p> <p>18 A. I became aware that Purdue, I believe, was</p> <p>19 in litigation for their marketing practices and that</p> <p>20 they paid a penalty ultimately.</p> <p>21 Q. Including criminal penalties?</p> <p>22 A. I assume so. I don't really recall</p> <p>23 what -- I know there was a financial compensation or a</p> <p>24 component to that. I didn't know if there's criminal</p>	<p style="text-align: center;">Page 32</p> <p>1 Q. It's creating some awareness in advance of</p> <p>2 the launch?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. One thing I do want to mention. I</p> <p>5 know you've testified a number of times before. For</p> <p>6 the sake of the court reporter, we're going to have to</p> <p>7 be careful not to talk over each other. I'm going to</p> <p>8 try to not speak over your answers. You're going to</p> <p>9 have to just be careful, let me finish my question and</p> <p>10 then begin your answer. It will -- otherwise, it will</p> <p>11 be very difficult for the court reporter to take down.</p> <p>12 Thank you.</p> <p>13 The other thing is just if you could</p> <p>14 remember to give actual verbal answers instead of</p> <p>15 shaking your head or nodding your head, again for the</p> <p>16 sake of the court reporter. He's going to need to be</p> <p>17 able to take down actual words. Is that okay?</p> <p>18 A. That's okay. Thank you.</p> <p>19 Q. And if at any point today you don't</p> <p>20 understand my question, would you please let me know</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. Thank you. Is there any reason today you</p> <p>24 can't give your best testimony?</p>
<p style="text-align: center;">Page 31</p> <p>1 or -- I don't recall that.</p> <p>2 Q. Okay. Let's go back to your résumé.</p> <p>3 Looking at your description of your work at -- is it</p> <p>4 Adolor?</p> <p>5 A. Adolor.</p> <p>6 Q. Adolor?</p> <p>7 A. Yes.</p> <p>8 Q. Thank you. I was mispronouncing it.</p> <p>9 Adolor. In the third bullet point down, on Page</p> <p>10 E1452.3, you describe conditioned the market for a</p> <p>11 new-to-the-world class of opioid antagonists called</p> <p>12 PAMORs. What do you mean by conditioned the market for</p> <p>13 a new-to-the-world class of opioid antagonists?</p> <p>14 A. That's referring to the work that you</p> <p>15 might do in advance of a product launch to have</p> <p>16 customers anticipate your product's coming, so you</p> <p>17 might work with -- working through your publication</p> <p>18 strategy and other forms of updated dissemination to</p> <p>19 let folks know that there's a product that's coming,</p> <p>20 that these are the clinical data, this is where you</p> <p>21 might use it, but it's not specific to the product, of</p> <p>22 course. It's about getting your scientific data into</p> <p>23 the market and seeing the applicability of where that</p> <p>24 drug might fit.</p>	<p style="text-align: center;">Page 33</p> <p>1 A. No.</p> <p>2 Q. No medications that are interfering with</p> <p>3 your cognitive abilities, for example?</p> <p>4 A. No.</p> <p>5 Q. Okay. Let's stay with your résumé. If</p> <p>6 you'll go up to your description of your time with Endo</p> <p>7 Pharmaceuticals. You list here Chadds Ford,</p> <p>8 Pennsylvania. Was that where your office was?</p> <p>9 A. Yes.</p> <p>10 Q. And you were senior director of oral pain</p> <p>11 solutions group; correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And it says here you were responsible for</p> <p>14 managing the P and L of each product in the oral pain</p> <p>15 solutions group. I just want to ask you what products</p> <p>16 those were, and just to hopefully help out on that, if</p> <p>17 you'll go down -- one, two -- three bullet points</p> <p>18 underneath your introduction. You list a number of</p> <p>19 products there. Let's do it this way. If you can just</p> <p>20 confirm that each of these were part of the oral pain</p> <p>21 solutions group. Opana?</p> <p>22 A. Yes.</p> <p>23 Q. Opana ER?</p> <p>24 A. Yes.</p>

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<p>1 Q. Percocet?</p> <p>2 A. Yes.</p> <p>3 Q. Frova?</p> <p>4 A. Yes.</p> <p>5 Q. And Zydome?</p> <p>6 A. Yes.</p> <p>7 Q. Were there any other products that were part of the oral pain solutions group during your time at Endo?</p> <p>8 A. I don't recall if there were any more. There might have been a smaller brand or two that were</p> <p>9 kind of in a mature state, but I think these were the</p> <p>10 prominent ones.</p> <p>11 Q. Okay. Percocet. You're familiar with</p> <p>12 that product, obviously. That was within your realm of</p> <p>13 responsibilities; correct?</p> <p>14 A. Yes, but only for about the last nine to</p> <p>15 10, 12 months, maybe, when the oral pains -- when I</p> <p>16 became the senior director of the oral pain solutions</p> <p>17 group. It was only for a very short period of my</p> <p>18 tenure there.</p> <p>19 Q. Let's go back then. When you joined Endo</p> <p>20 Pharmaceuticals, what was your position?</p> <p>21 A. Senior director of marketing.</p>	<p>1 A. That's correct.</p> <p>2 Q. Okay. And if I understand correctly, you</p> <p>3 also took on concurrently, it looks like from September</p> <p>4 2009 to September 2010, responsibilities to serve as</p> <p>5 the regional sales director for the Midwest region; is</p> <p>6 that right?</p> <p>7 A. That is correct.</p> <p>8 Q. Okay. And so you maintained your</p> <p>9 marketing responsibilities, but also took on the</p> <p>10 additional responsibilities of regional sales director?</p> <p>11 A. Correct.</p> <p>12 Q. All right. And then I think you said for</p> <p>13 the last nine to 12 months of your time with Endo, so</p> <p>14 sometime, earliest June 2010, you became senior</p> <p>15 director for the oral pain solutions groups, which you</p> <p>16 expanded your marketing responsibilities to more</p> <p>17 products; correct?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. Correct.</p> <p>20 Q. (By Ms. Scullion) Okay. And I think you</p> <p>21 told me that Percocet was one of the products that you</p> <p>22 did eventually have responsibility for in the last nine</p> <p>23 to 12 months of your time. Percocet was a combination</p> <p>24 of Oxycodone and Apap (ph); correct?</p>
<p style="text-align: center;">Page 35</p> <p>1 Q. And were you responsible for certain</p> <p>2 products as senior director of marketing when you first</p> <p>3 joined?</p> <p>4 A. Yes.</p> <p>5 Q. Which products?</p> <p>6 A. Opana and Opana ER.</p> <p>7 Q. Any others?</p> <p>8 A. No.</p> <p>9 Q. And do you know -- what was your next</p> <p>10 position after senior director of marketing?</p> <p>11 A. That was my basic position until my --</p> <p>12 until I took over the extra products. In fact, you</p> <p>13 might even say the title itself and the level is the</p> <p>14 same. Just took on additional responsibilities for</p> <p>15 other brands. I also had a small -- a short stint as a</p> <p>16 regional sales director, and -- but that was a</p> <p>17 development opportunity, not an official, let's say,</p> <p>18 position in that sense. So I kept my marketing</p> <p>19 responsibilities in parallel with doing that job</p> <p>20 rotation.</p> <p>21 Q. Okay. Let me make sure that I understand.</p> <p>22 So you joined as senior director of marketing, and you</p> <p>23 had responsibilities for Opana and Opana ER from a</p> <p>24 marketing perspective; correct?</p>	<p style="text-align: center;">Page 37</p> <p>1 A. Correct.</p> <p>2 Q. Okay. Oxycodone is the same opioid as</p> <p>3 an OxyContin; correct?</p> <p>4 A. Correct.</p> <p>5 Q. All right. And when you took on</p> <p>6 responsibilities for Percocet in, sounds like</p> <p>7 approximately late 2010 -- let's put it that way -- at</p> <p>8 that point that was a fairly mature product; correct?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. That's correct.</p> <p>11 Q. (By Ms. Scullion) Percocet had been in</p> <p>12 fact launched way back in the 1970s; right?</p> <p>13 A. I don't know the launch date of the</p> <p>14 original.</p> <p>15 Q. Do you recall if it was launched well</p> <p>16 prior to Endo itself being founded in 1997?</p> <p>17 A. I don't know. It was -- when I got there,</p> <p>18 you know, Percocet was already there. I know that they</p> <p>19 had it. I don't know the timing or what happened and</p> <p>20 when.</p> <p>21 Q. Okay. And in that last period of your</p> <p>22 employment with Endo, latter half of 2010 through 2011,</p> <p>23 was Endo also selling a branded generic version of</p> <p>24 Percocet called Endocet?</p>

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<p style="text-align: right;">Page 38</p> <p>1 MR. LIMBACHER: Object to form and 2 foundation. 3 A. Yes. 4 Q. (By Ms. Scullion) Okay. Did you ever 5 have responsibilities with respect to Endocet? 6 A. No. 7 Q. Do you know which group within Endo did 8 have responsibilities for Endocet during that time 9 period? 10 A. I don't recall specifically. I assume it 11 was the generic division. 12 Q. During the time that you were with Endo 13 starting back in 2006, at the very beginning of your 14 time with Endo, was Endo also selling generic version 15 of OxyContin? 16 A. I don't recall. I don't remember that. 17 Q. Are you aware whether Endo had sold at 18 some point in time a generic version of OxyContin? 19 MR. LIMBACHER: Object to form. 20 A. I don't recall that. 21 Q. (By Ms. Scullion) Okay. Safe to say you 22 did not have responsibility for such -- that product if 23 they did sell it; right? 24 A. I didn't have responsibility for any --</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. LIMBACHER: Object to form. 2 A. Correct. 3 Q. (By Ms. Scullion) And exceeded its -- 4 also it says TRX forecast. What's TRX forecast? 5 A. TRX is an acronym for total prescriptions. 6 Q. Okay. So for those four years, the Opana 7 brand also exceeded its total prescription forecast; 8 correct? 9 A. Yes. 10 Q. Okay. If you go back up to the summary of 11 your time at Endo. You say you were responsible for 12 managing the P and L of the products for which you had 13 responsibility; correct? 14 A. Correct. 15 Q. And just to make sure I understand, so at 16 the beginning when you first were -- had responsibility 17 just for Opana and Opana ER, you did -- you were 18 responsible for managing the P and L for those 19 products; correct? 20 A. Correct, although at the beginning we did 21 not. That became something we did later on into my 22 tenure. 23 Q. So in terms of having responsibility for 24 the P and L, that came on later in your tenure?</p>
<p style="text-align: right;">Page 39</p> <p>1 that kind of product at all. No. 2 Q. Okay. Okay. Going to the first bullet 3 point under your description of your time at Endo. You 4 say successfully launched the Opana brand in 2006, 5 building it into a 600 million dollar franchise and 6 becoming the Number Two product in its market segment. 7 Safe to say that your work on the Opana brand was 8 successful? 9 MR. LIMBACHER: Object to form. 10 A. It was -- yes, it was successful as far as 11 I was concerned. A relatively percentage of the 12 overall market. 13 Q. (By Ms. Scullion) It did build up to a 14 600 million dollar franchise; correct? 15 MR. LIMBACHER: Object to form. 16 A. Yes. 17 Q. (By Ms. Scullion) Okay. And through the 18 marketing promotion efforts, it did become Number Two 19 product in the market segment, at least; correct? 20 A. Correct. 21 Q. And in fact, as you go on to state, at 22 least for four full years running, 2007 to 2010, under 23 your leadership the Opana brand exceeded its net sales; 24 correct?</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes. You know, the way the business was 2 managed was every year you evaluate who's doing what, 3 and soon -- after a year or two, I think they decided 4 we would manage brand P and Ls. 5 Q. Okay. Got it. And then you go on to 6 explain you're also responsible for managing the -- it 7 says in line marketing functions. What does that mean? 8 A. In line marketing functions would refer to 9 things like product promotion, customer -- promotional 10 materials, coupon programs, things that would 11 facilitate the communication of the product to 12 customers. 13 Q. And customers -- just to make sure that 14 we're clear -- let's start with Opana ER. The 15 customers would include physicians; correct? 16 MR. LIMBACHER: Object to form. 17 A. Correct. 18 Q. (By Ms. Scullion) Could also include 19 other health care providers such as nurses or 20 physicians' assistants to the extent that they're 21 authorized under their relevant state's regimes to 22 prescribe? 23 MR. LIMBACHER: Object to form. 24 A. Yeah. Our customers were always</p>

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<p style="text-align: right;">Page 42</p> <p>1 determined by the appropriate targeting of clinicians, 2 health care professionals who were responsible and had 3 the ability -- and the ability to write these products 4 for their patients who were suffering from pain -- you 5 know, pain patients. So we had a very focused 6 definition of who we would target, who we would promote 7 to.</p> <p>8 Q. (By Ms. Scullion) Okay. Who determined 9 which customers to target for Opana ER during your 10 time?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 Q. (By Ms. Scullion) Your time with Endo? 13 Sorry.</p> <p>14 A. The ultimate target list ulti -- was 15 derived from a number of different inputs, but 16 ultimately would have to start with where the business 17 is. We were not expanding the market. We were rather 18 focused on taking share from existing products. So you 19 would look at who's already writing products, and then 20 it would go through an internal review to ensure that 21 customers that we were targeting were appropriate based 22 on legal and regulatory guidelines. Ultimately who 23 made the final decision, I'm not quite sure how that 24 would filter down, whether that was sales or regulatory</p>	<p style="text-align: right;">Page 44</p> <p>1 were already writing higher volumes of long-acting 2 opioids and which were really only writing more modest 3 volumes of long-acting opioids; correct?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. With IMS data, you can see physicians' 6 prescribing habits --</p> <p>7 Q. (By Ms. Scullion) Okay.</p> <p>8 A. -- whether that's for opioids or any 9 class of product. You can see that.</p> <p>10 Q. But you could take IMS data and you -- 11 sorry. Strike that. You did take that IMS data and 12 look at it just, for example, for long-acting opioids 13 to see who's writing what volumes of long-action 14 opioids; correct?</p> <p>15 A. That data was used to help determine the 16 targeting. Sales analytics usually did the targeting 17 process, so I can't really speak to all the decisions 18 that went into, you know, how they trimmed down the 19 sales list or the target list, but generally speaking 20 they would use IMS data to help them make those 21 determinations.</p> <p>22 Q. Okay. So we're talking about the in line 23 marketing functions in your description of your 24 position with Endo. You then go on to -- so you also</p>
<p style="text-align: right;">Page 43</p> <p>1 working together.</p> <p>2 Q. Okay. If I understand correctly, you're 3 saying you're targeting physician -- sorry -- 4 providers, I should say -- who were already writing 5 long-acting opioids in the case of Opana ER; correct?</p> <p>6 A. Correct. Those clinicians who had a pain 7 practice, those who are experienced in writing 8 long-acting opioids. We were not trying to go outside 9 and build up a new base of business, but rather to do a 10 share acquisition strategy to going after where 11 clinicians who might be using a competitor product and 12 hopefully showing the benefits of Opana ER and having 13 them consider that in their choice set.</p> <p>14 Q. Okay. In order to do that targeting of 15 physicians who are already currently writing 16 competitive products, I think you said -- and obviously 17 had information then about which physicians were then 18 currently writing which competitive products and at 19 which levels; correct?</p> <p>20 A. Correct.</p> <p>21 Q. To know who to target?</p> <p>22 A. IMS data provides that insight.</p> <p>23 Q. Okay. So for example, again looking at 24 Opana ER, Endo would be able to tell which physicians</p>	<p style="text-align: right;">Page 45</p> <p>1 had a responsibility for life cycle management. I'm 2 looking at your résumé, Page E1452.3. What was life 3 cycle management?</p> <p>4 A. Life cycle management is a term used 5 generally just to talk about how you might be able to 6 identify ways to improve the value of the product to 7 the market, things that the market may be still looking 8 for in terms of additional improvements or benefits, 9 and trying to determine if it's possible to bring those 10 improvements to the product and to offer that value 11 back to the market.</p> <p>12 Q. And in looking at life cycle management, 13 did you look at life cycle management for Opana ER?</p> <p>14 A. Yes.</p> <p>15 Q. Was one of the things that you looked at 16 the projection of when there may be a generic version 17 of Opana ER launched?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. The potential for generic is a scenario 20 that we plan for. In fact, every product does; right? 21 Eventually products lose their patent and you have 22 to -- in good faith as a marketer, you always have to 23 take into account those potential scenarios that are 24 going to have an effect on your business.</p>

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<p style="text-align: center;">Page 46</p> <p>1 Q. (By Ms. Scullion) Okay. And that's 2 because the entry of a generic would tend to drive down 3 revenues from a branded -- existing branded product; 4 correct?</p> <p>5 MR. LIMBACHER: Object to form.</p> <p>6 A. When a generic is launched, the systems 7 that are in place within pharmacies and managed care, 8 you will generally lose, you know, a significant 9 portion of your business in a relatively short period 10 of time because there's -- a lot of payors or 11 pharmacies will do an automatic switch.</p> <p>12 Q. (By Ms. Scullion) And planning for the 13 potential for generic entry for Opana ER, was that 14 something you were looking at from the time you started 15 with Endo in June of 2006?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. It's a scenario that we always considered 18 from the beginning.</p> <p>19 Q. (By Ms. Scullion) And you did in fact 20 consider it from the beginning for Opana ER; correct?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. Correct.</p> <p>23 Q. (By Ms. Scullion) Okay. You go on in the 24 same line in your résumé to state you also had</p>	<p style="text-align: center;">Page 48</p> <p>1 Q. (By Ms. Scullion) Okay. And if I 2 understand correctly, you're saying Endo, though, also 3 had pricing contracts between Endo and let's say the 4 customers to whom the distributors were distributing 5 the product; correct?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. I don't know if that -- the customers to 8 whom the distributors typically sell to would be other 9 smaller maybe wholesalers or directly to pharmacy. I 10 don't know if we had contracts specifically with 11 pharmacies or those other end players or not.</p> <p>12 Q. (By Ms. Scullion) I apologize. So when 13 you -- the contracts with respect to pricing that you 14 discussed, you said those were with, for example, 15 payors; correct?</p> <p>16 A. Correct. So --</p> <p>17 Q. Can you give me some examples of -- for 18 example, for Opana ER who would those payors be that 19 you had pricing contracts with?</p> <p>20 A. I don't recall the individual plans, but 21 usually these are managed care plans, insurance 22 companies.</p> <p>23 Q. Okay.</p> <p>24 A. Maybe state's Medicare -- Medicaid,</p>
<p style="text-align: center;">Page 47</p> <p>1 responsibility for pricing and contracting. What did 2 that refer to?</p> <p>3 A. So pricing and contracting as a 4 function -- these are roles that we have within 5 pharmaceutical companies to determine what price should 6 be offered to the marketplace and to different customer 7 classes. I mean, there are discounts involved to 8 certain different customers, distributors, and so 9 forth.</p> <p>10 Government agencies get a different price. 11 I mean, it's a very complex pricing environment. Let's 12 put it that way. And contracting goes along with that, 13 you know, to establish certain prices and you have to 14 put contracts in place with payors or government or 15 whomever that you may be establishing those pricing 16 tiers with. So there's a certain department that did 17 that work.</p> <p>18 Q. Okay. Just staying focused on Opana ER 19 for the moment, make sure I understand. Opana ER -- 20 strike that. Endo had certain distributors for Opana 21 ER -- correct -- like Cardinal, for example, McKesson, 22 the big wholesalers; is that right?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. They were among the distributors.</p>	<p style="text-align: center;">Page 49</p> <p>1 rather. The government for -- you know, if you had 2 Medicare contracts. It just depends on which customer 3 it was, but usually these are the ones that you're 4 basically providing the insurance coverage for the 5 product.</p> <p>6 Q. Are you familiar with the term 7 charge-backs?</p> <p>8 A. I know the term. I'm not sure I 9 understand the mechanism in detail.</p> <p>10 Q. What's your best understanding of what 11 charge-backs were? Let's -- again, with respect to 12 Opana ER.</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 Foundation.</p> <p>15 A. I'm not sure exactly how to describe that, 16 to be honest with you. I think it has something to do 17 with the wholesalers, but I don't know how that's 18 calculated.</p> <p>19 Q. (By Ms. Scullion) If you wanted to 20 understand how charge-backs worked when you were with 21 Endo for Opana ER, was there someone you would have 22 wanted to speak to?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. Yes, I guess there would be.</p>

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<p style="text-align: center;">Page 50</p> <p>1 Q. (By Ms. Scullion) Who would that have 2 been, by title or name? Either way.</p> <p>3 A. Probably somebody in the pricing and 4 contracts department.</p> <p>5 Q. Was pricing and contracts -- was that its 6 own department? Was that under managed care? Do you 7 recall?</p> <p>8 A. I know who it was under. I'm trying to 9 remember the title of the -- of his -- it was called 10 managed markets --</p> <p>11 Q. Who's the name that you're recalling? 12 What's the name you're recalling?</p> <p>13 A. Steve Cooper.</p> <p>14 Q. Going back to your résumé. Same 15 paragraph. You have a summary of your position at 16 Endo. You go on to say that you also had a 17 responsibility for portfolio development opportunities. 18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. What do you mean by that?</p> <p>21 A. Trying to help identify other products 22 that we might be able to bring in to help grow the 23 portfolio beyond the brands that were already there.</p> <p>24 Q. During the time that you were with Endo,</p>	<p style="text-align: center;">Page 52</p> <p>1 level of promotion you expect, what do you mean? 2 A. Again, as a share acquisition strategy in 3 trying to take market share from, you know, a 4 competitor, that often became a discussion of -- share 5 voice -- you know, are you calling on that doctor the 6 same level of call frequency as your competitor? 7 If you only have 10 reps and they have a 8 thousand reps, you probably aren't going to have a very 9 strong expectation on a forecast, so the question is, 10 you know, what is it that you're putting into the 11 marketplace to generate the demand that you're hoping 12 to achieve and the number specifically and how many 13 patients you're able to help? I think we would take 14 all this into account and that would drive the 15 forecast. There are other -- like I said, other 16 assumptions, any other kind of inputs and outputs, but 17 generally speaking, we would create a forecast that 18 way.</p> <p>19 Q. So if I understand correctly, one of the 20 things you would consider with a forecast would be how 21 much promotional effort are we expecting to put in and 22 that would -- that could impact the number of 23 prescriptions you may be expecting to see in any given 24 year; correct?</p>
<p style="text-align: center;">Page 51</p> <p>1 did Endo acquire Qualitest (ph)? 2 MR. LIMBACHER: Object to form.</p> <p>3 A. I think so.</p> <p>4 Q. (By Ms. Scullion) Did you have any role 5 in that?</p> <p>6 A. No.</p> <p>7 Q. Want to go back to your reference to the 8 Opana brand exceeding its total prescription forecast 9 in that first bullet point. How were total 10 prescription forecasts set -- or how were they derived, 11 I should say -- during those years you referenced, 12 2007-2010?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. I don't recall specifics on -- I mean, 15 again, being, you know, over 10 years ago now with some 16 of these things -- I don't recall all the specific 17 assumptions that went in, but you generally create a 18 forecast based on a specific set of assumptions that 19 includes, you know, competitive intelligence, your -- 20 the level of promotion you expect, and any number of 21 other factors that would lead you to believe that a 22 prescriber would choose your product more frequently or 23 less frequently for whatever reason.</p> <p>24 Q. (By Ms. Scullion) Okay. When you say</p>	<p style="text-align: center;">Page 53</p> <p>1 MR. LIMBACHER: Object to form. 2 A. That's one input. Certainly there are 3 others.</p> <p>4 Q. (By Ms. Scullion) You mentioned -- strike 5 that. You mentioned one of the others were -- what's 6 the competitive intelligence. Is that -- so what do 7 you mean by that factor?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. You want to understand what your 10 competition is doing, how are they perceived, how are 11 they covered in the marketplace from a payor 12 perspective, how are you covered, how does that match 13 up with your opportunity -- there's lots of bits of 14 information that will help guide and direct whether or 15 not you are -- how your forecast should grow or flatten 16 as -- you never know what that output really looks 17 like, but that's what drives a lot of the forecast 18 modeling.</p> <p>19 Q. (By Ms. Scullion) You mentioned looking 20 at how your competitors are perceived. What do you 21 mean by that?</p> <p>22 A. It can be any number of things, really. 23 Again, a perception is, you know, based on how products 24 are being used, what clinicians are thinking about</p>

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<p>1 them, how patients feel about them. Are they looking 2 for different alternatives?</p> <p>3 In the opioid marketplace, for example, 4 prior to launching Opana and Opana ER, you really had 5 kind of two molecules, even though there were multiple 6 products -- you know, generic morphine and different -- 7 a number of different brands, and Oxycodone certainly 8 with OxyContin -- but when it came right down to it, 9 the way opioids work is that not every molecule works 10 the same in every patient.</p> <p>11 Having really only two molecules to use in 12 a very diverse and complex condition such as chronic 13 pain, whether it's cancer pain or low back pain, the 14 importance of having a third molecule was, you know, 15 welcomed by the marketplace. Gives patients another 16 choice and clinicians another choice to help patients 17 suffering of pain. So how -- the perception of those 18 two molecules, for example, led to really the need for 19 another different opioid that would perhaps have a 20 different effect for patients in pain.</p> <p>21 Q. With respect to perception of the 22 molecules, was it part of your responsibility as -- in 23 your marketing position -- to, again, sort of create 24 awareness around like, for example, oxymorphone with</p>	<p>1 MR. LIMBACHER: Object to form. 2 A. Customers have to become aware of a 3 product in order to use it. Otherwise, they don't use 4 it.</p> <p>5 Q. (By Ms. Scullion) Okay. And that was 6 fundamentally your job, is to make them aware of the 7 products that they might use it; correct?</p> <p>8 MR. LIMBACHER: Object to form. 9 A. Correct.</p> <p>10 Q. (By Ms. Scullion) Okay. You discussed 11 perceptions of the molecule. Was it also relevant to 12 look at the perception of the manufacturer or the 13 perceptions of the manufacturers that were looked at?</p> <p>14 MR. LIMBACHER: Object to form. 15 A. Yes. In any situation when you're dealing 16 with the public, it's good to know how your company is 17 being perceived.</p> <p>18 Q. (By Ms. Scullion) So reputation of the 19 company is a relevant factor in marketing?</p> <p>20 A. Yes.</p> <p>21 Q. Was it relevant in the marketing of Opana 22 ER?</p> <p>23 A. Relevant for all the products we marketed 24 at Endo.</p>
Page 55	Page 57
<p>1 respect to Opana ER and the perception of that as a new 2 alternative?</p> <p>3 MR. LIMBACHER: Object to form. 4 A. You mean prelaunch? Is that what you 5 mean?</p> <p>6 Q. (By Ms. Scullion) We can start with 7 prelaunch.</p> <p>8 A. Yeah. Well, we didn't have much time to 9 do any prelaunch when I was hired, so it was late May, 10 early June when I was hired in 2006. The product was 11 approved very soon thereafter, so there was -- the 12 awareness that you create, of course, is just, again, 13 based on the approved promotional material, that we had 14 our approved label from the FDA and using that as our 15 guidepost in promoting the material that was approved 16 internally from our legal, medical, regulatory review 17 board, and that's kind of how we were forced to launch. 18 We didn't have the benefit of a longer period. There 19 was no prelaunch activities per se because of the very 20 short time frame.</p> <p>21 Q. Okay. But fair to say, I mean, your job 22 in marketing existed because it wasn't enough just to 23 have a new molecule be approved by the FDA? You had to 24 make the medical community aware of that; right?</p>	<p>1 Q. Including Opana ER; correct? 2 A. Sure.</p> <p>3 MR. LIMBACHER: Jen, we've been going a 4 little over an hour. Whenever is a good time for a 5 break.</p> <p>6 MS. SCULLION: Yeah, I think we're almost 7 there.</p> <p>8 Q. (By Ms. Scullion) In the marketing and 9 promotion of Opana and Opana ER, was the reputation of 10 Purdue a relevant consideration for you?</p> <p>11 MR. LIMBACHER: Object to form. 12 A. Not in our marketing efforts.</p> <p>13 Q. (By Ms. Scullion) I'm just going to 14 finish up with this portion of the résumé; okay? Third 15 bullet point down under your Endo entry on the résumé, 16 you refer to successfully leading a number of things -- 17 in line prelaunch development stage products within the 18 oral pain solutions group, including Opana, Opana ER, 19 Percocet. You go on to say as well as the development 20 and filing of new crush-resistance form of oxymorphone 21 extended-release tablets. Was that a reference -- the 22 new crush-resistance form -- to the reformulated 23 version of Opana ER?</p> <p>24 A. Yes.</p>

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<p>1 Q. And what was your role in the development 2 of filing -- development and filing of the new 3 crush-resistant form of Opana ER?</p> <p>4 A. On these -- when you do this type of life 5 cycle management, there's a lead from each cross 6 functional team. Obviously the commercial is the lead 7 on that. I didn't lead that group -- there was a 8 clinical group to do the work -- but I was the 9 commercial lead on supporting that.</p> <p>10 Q. What was your role as commercial lead in 11 the development of that product?</p> <p>12 A. To provide commercial input as needed to 13 ensure that we were developing a product in accordance 14 with market needs.</p> <p>15 Q. So for example, you're looking and seeing 16 what is the market interest in a crush-resistant form 17 and is there a need for that form; is that right?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. We would look at market data and market 20 trends and by virtue and feedback maybe from customers 21 as well, taking into account lots of different inputs, 22 and then deciding, you know, how would we -- how could 23 we improve the product to offer a better value back to 24 the marketplace.</p>	<p>1 something that Endo perceived based on its market 2 research and customer feedback was of interest to the 3 marketplace; correct?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. Again, I don't recall specific data and 6 market research points, but in general the trends were 7 moving in that direction and we certainly wanted to 8 make an offer of the best product we could for the 9 marketplace.</p> <p>10 Q. (By Ms. Scullion) Okay. Just going to 11 the last bullet point in this section of your résumé -- 12 I'm sorry -- second-to-last. I apologize. You 13 reference leading the development of harmonized brand 14 performance initiative. What does that refer to?</p> <p>15 A. It was just a process by which trying to 16 do brand planning cross functionally and making sure 17 that we had full cross functional support in the brand 18 planning process so that we took a holistic view of 19 brand planning every year rather than having kind of a 20 myopic one -- not myopic per se -- but having more 21 marketing-focused rather than having a kind of 22 completely holistic -- taking into complete cross 23 functional support of the brand.</p> <p>24 Q. (By Ms. Scullion) So if I understand,</p>
<p style="text-align: center;">Page 59</p> <p>1 Q. (By Ms. Scullion) Did your market 2 research, your customer feedback, indicate to you that 3 there was an interest in a crush-resistant form of 4 Opana ER?</p> <p>5 MR. LIMBACHER: Object to form.</p> <p>6 A. I don't recall specifics in terms of 7 market research data points, but clearly the market was 8 moving in that direction in general.</p> <p>9 Q. (By Ms. Scullion) Okay. And that was a 10 movement within the market that Endo was looking to 11 follow in introducing a reformulated version of Opana 12 ER; correct?</p> <p>13 A. Endo took its responsibility very 14 seriously to try to create the best product it could 15 when it came to these -- when it came to Opana ER, and 16 looking at the trends of where the market seemed to be 17 heading, I think made a conscious decision to try to 18 improve the product as much as possible.</p> <p>19 Q. But the specific improvement that it 20 looked at was a crush-resistant form; correct?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. The specific form would be to be 23 tamper-resistant.</p> <p>24 Q. (By Ms. Scullion) Okay. And that was</p>	<p style="text-align: center;">Page 61</p> <p>1 you're saying that doing the planning for any given 2 brand -- for example, was this true with Opana ER, what 3 you just described?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 Q. (By Ms. Scullion) The cross functional 6 approach that was true with respect to Opana ER?</p> <p>7 A. I'm sorry. I'm not sure I understand what 8 you're asking.</p> <p>9 Q. That's okay. Did you use this harmonized 10 brand performance approach in brand planning for Opana 11 ER?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. Yes.</p> <p>14 Q. (By Ms. Scullion) Okay. And if I 15 understand correctly, that meant making sure brand 16 planning for Opana ER included not just a marketing 17 perspective, but you said cross functional 18 perspectives; correct?</p> <p>19 A. Correct.</p> <p>20 Q. And so what does that mean, cross 21 functional? What other functions outside of marketing 22 would be having input into the brand plan for Opana ER?</p> <p>23 A. It would be any number of departments that 24 were -- that had or touched the brand in some way, so</p>

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<p>1 it could be sales, it could be training, it could be 2 clinical, it could be distribution, regulatory. We 3 wanted to make sure that we had everybody's full 4 support so that we had a very comprehensive and 5 holistic view of the business for the brand.</p> <p>6 Q. Public relations?</p> <p>7 A. Could be. I don't recall specifically.</p> <p>8 Q. Okay. Government affairs?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And then you go on in the same 11 sentence to discuss leading the development of -- it 12 says SpeakerNet. What was SpeakerNet?</p> <p>13 A. SpeakerNet was a software -- an attempt 14 that I had to develop our own internal software package 15 to help facilitate speaker programs within the field. 16 Just an internal tool that you can probably buy for 100 17 bucks today from a lot of people, but back then it 18 seemed like a good idea.</p> <p>19 Q. Okay. And when you say speaker programs, 20 what were speaker programs?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. Speaker dinner programs where we were -- 23 have an educational message around the benefits and the 24 safety of Opana ER and how to appropriately prescribe</p>	<p>1 Q. And I think you said the slide deck, the 2 presentation itself, would also have been reviewed and 3 approved by Endo; correct?</p> <p>4 A. All of our promotional materials were 5 reviewed internally through our medical, legal, and 6 regulatory -- what we call the PMRB board.</p> <p>7 Q. Yeah.</p> <p>8 A. And that's where all of the materials 9 would be reviewed for quality and compliance reasons.</p> <p>10 Q. Okay. You said KOLs -- key opinion 11 leaders. Are those sometimes referred to as thought 12 leaders, or were they? Thought leaders?</p> <p>13 A. Could be.</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. Synonymous.</p> <p>16 Q. (By Ms. Scullion) Okay.</p> <p>17 MR. LIMBACHER: Good time for a break?</p> <p>18 MS. SCULLION: Yeah, I think that works 19 fine. Thank you.</p> <p>20 MR. LIMBACHER: Thank you.</p> <p>21 THE VIDEOGRAPHER: Off the record at 10:17 22 AM.</p> <p>23 [A brief recess was taken.]</p> <p>24 THE VIDEOGRAPHER: We are back on the</p>
<p>1 all of the things that you'd want to make sure your 2 customers knew about your product. These -- this was 3 one avenue to have program with a number of customers 4 at once, probably in a restaurant, and they would be 5 able to spend a lot of quality time going through the 6 approved slide deck to talk about all the risks and 7 benefits of Opana ER.</p> <p>8 Q. (By Ms. Scullion) So these were health 9 care providers that were invited to, for example, a 10 dinner in a restaurant; is that right?</p> <p>11 A. Correct.</p> <p>12 Q. And who would be the speaker at such a 13 dinner program for Opana ER?</p> <p>14 A. They would usually be KOLs or key opinion 15 leaders who were trained by Endo on the benefits and 16 the risks of the product, on Endo's policies, 17 compliance policies, et cetera, and they would be the 18 ones who would deliver the message.</p> <p>19 Q. So these are speakers chosen by Endo 20 then; correct?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. Correct.</p> <p>23 Q. (By Ms. Scullion) And trained by Endo?</p> <p>24 A. Correct.</p>	<p>1 record at 10:32 AM.</p> <p>2 Q. (By Ms. Scullion) Welcome back, Mr. 3 Bingol. You understand you're still under oath?</p> <p>4 A. Yes.</p> <p>5 Q. Terrific. Just going back to your résumé, 6 which is Exhibit 5. Looking on the same page marked 7 E1452.3 in the right-hand corner -- lower right-hand 8 corner. We were talking about the bullet points under 9 your Endo Pharmaceuticals entry. The last bullet point 10 there, you state served as a founding member of the 11 Endo PAC. What was the Endo PAC?</p> <p>12 A. That was a political action committee.</p> <p>13 Q. And what did Endo PAC do? Let me strike 14 that. Did Endo PAC do anything with respect to opioids 15 while you were with Endo?</p> <p>16 A. There were a number of initiatives, I 17 guess, that I don't recall specifically what the PAC 18 did. We had a government affairs person who was in 19 charge of that.</p> <p>20 Q. And who was that?</p> <p>21 A. I don't recall his last name.</p> <p>22 Q. Brian Munroe?</p> <p>23 A. Yes.</p> <p>24 Q. Great. What was your role in Endo PAC?</p>

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<p>1 A. Mostly as a member. We -- I would sit on 2 the committee to discuss whatever the PAC was doing, to 3 help provide guidance, I guess, on the PAC. There was 4 a small group that would be responsible for reviewing 5 opportunities or whatever topics were being discussed, 6 and we would -- just kind of a committee for political 7 action activities in Washington.</p> <p>8 Q. And these were activities that Endo 9 thought would support Endo's business; is that right?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. I don't recall, again, the specific 12 initiatives to know what they were or not, but 13 generally speaking, these were activities that would -- 14 I mean, I just don't recall the specific activities. I 15 would be giving you a guess at this point.</p> <p>16 Q. (By Ms. Scullion) Okay. Do you recall 17 whether from time to time through Endo PAC the PAC 18 coordinated with PACs for any other manufacturers of 19 opioids?</p> <p>20 A. I don't recall if that was done or not.</p> <p>21 Q. You don't recall one way or the other?</p> <p>22 A. (Shaking head "no.")</p> <p>23 Q. Okay.</p> <p>24 A. No.</p>	<p>1 the Midwest and what might have been a different 2 region.</p> <p>3 Q. Okay. And the district managers during 4 the time that you were regional sales director -- did 5 the district managers from time to time go out on 6 ride-alongs with the sales representatives in the 7 field?</p> <p>8 A. Yes.</p> <p>9 Q. Did you yourself ever go out on any 10 ride-alongs with any sales representatives?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall how many times approximately 13 you did that?</p> <p>14 A. No, I don't recall a number.</p> <p>15 Q. Okay. Okay. Do you remember what 16 geographic areas you went to on your ride-alongs?</p> <p>17 A. There were many, so I don't recall which 18 ones -- you know, as marketing on the brand, I might go 19 anywhere in the country at any one time to see and hear 20 for myself what was happening and the perceptions of 21 the product and so forth.</p> <p>22 Q. Do you recall ever doing any ride-alongs 23 in Akron?</p> <p>24 A. I don't recall a ride-along in Akron.</p>
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<p>1 Q. Thank you. We're going to need to say yes 2 or no. Thank you. It's helpful. In going down to 3 your duties as regional sales director, you state 4 responsible for managing 80 sales representatives, and 5 it says eight DMs. The 80 sales representatives, these 6 were the sales people in the field; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Those who were out there, you know, 9 calling on doctors and other providers?</p> <p>10 A. Correct.</p> <p>11 Q. All right. And the DMs -- that's district 12 managers; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And the Midwest region -- that included 15 Ohio; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall if it also included 18 Pittsburgh?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know whether it included West 21 Virginia or Tennessee?</p> <p>22 A. I don't recall. It might have had a 23 portion of it. I don't know if it had all of it. I 24 don't recall the exact territorial boundaries between</p>	<p>1 Q. Okay. How about Pittsburgh? Any 2 ride-alongs in Pittsburgh?</p> <p>3 A. Yes.</p> <p>4 Q. What do you remember about your 5 ride-alongs in Pittsburgh?</p> <p>6 A. I don't recall a lot of the details 7 around, you know, those types of discussions with -- 8 meeting doctors and talking to sales reps, you know, in 9 the car, kind of the more mundane aspects of it, but I 10 don't recall specifics.</p> <p>11 Q. Sales reps -- were they expected to get to 12 know the providers they were calling on?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. Yes.</p> <p>15 Q. (By Ms. Scullion) Get to know the nature 16 of the practice of their providers?</p> <p>17 A. Yes.</p> <p>18 Q. The office environment?</p> <p>19 A. Yes.</p> <p>20 Q. Medical needs of the patients being 21 served?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. Yes. In order to understand best how our 24 product might help the patients they're serving, it</p>

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<p style="text-align: center;">Page 70</p> <p>1 would be useful to understand how the practices were -- 2 you know, how they were made up, how they were run, 3 who's there, who's not, that type of thing.</p> <p>4 Q. (By Ms. Scullion) Okay. And the sales 5 reps were assigned to specific geographic territories; 6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Were they expected to try to understand 9 the medical needs more generally of the communities in 10 those territories that they were assigned to?</p> <p>11 A. Their expectations would be to know their 12 business in general, so whether it's into the 13 community, whether it's the bigger picture of pain 14 management. There was a lot of different expectations 15 in terms of what they should know.</p> <p>16 Q. And as part of knowing their business, 17 that would have included an expectation that they know 18 the medical needs of the community -- the community in 19 which they are visiting doctors; correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. I don't know what you mean by community, 22 but they certainly should to be effective understand 23 what's going on within the environment of the doctor's 24 office in which they are targeting and discussing the</p>	<p style="text-align: center;">Page 72</p> <p>1 Midwest region exceeded revenue targets for Opana ER 2 from September 2009 through September 2010; correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. And do you recall that during the 5 time that you served as regional sales director, the 6 Midwest region achieved the Number One position for 7 Opana ER?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. Yes.</p> <p>10 Q. (By Ms. Scullion) And that was due as -- 11 due to your leadership within that region?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. Due to probably a number of factors, quite 14 frankly. Improvements and growth are usually relative 15 to what's already happened there. It doesn't 16 necessarily reflect, let's say, a broader picture of 17 how successful you are, but just relative to the 18 previous year, we had done better.</p> <p>19 Q. (By Ms. Scullion) Okay. Did you ask to 20 be assigned the regional sales director position?</p> <p>21 A. Yes.</p> <p>22 Q. And why was that?</p> <p>23 A. I saw it as a career development 24 opportunity. I had a short stint in sales at</p>
<p style="text-align: center;">Page 71</p> <p>1 product with.</p> <p>2 Q. (By Ms. Scullion) Okay. Would they be 3 expected to know the pharmacists in the territory that 4 they're --</p> <p>5 A. They would be expected to attempt to know 6 the pharmacists. That was a trickier proposition 7 sometimes because of busy stores and whether or not 8 they would see you, but pharmacy calls were encouraged.</p> <p>9 Q. As part of knowing their business, would 10 they have been expected to try to understand any 11 concerns that members of the medical community within a 12 territory that they're serving might have had about, 13 let's say, Opana ER?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. They're responsible for if any such 16 concern was raised, to report and -- feedback to 17 Endo -- any kind of concern or as an adverse event or 18 as a drug safety issue, we had a protocol in place to 19 handle those kinds of signals or information, and they 20 would be responsible for managing it through our 21 protocols.</p> <p>22 Q. (By Ms. Scullion) Okay. Just going back 23 again to your résumé, Exhibit 5, under discussion of 24 your role as regional sales director. You say that the</p>	<p style="text-align: center;">Page 73</p> <p>1 AstraZeneca and thought I could learn more about the 2 sales process and sales management by taking on this 3 additional responsibility.</p> <p>4 Q. Before taking on that responsibility, had 5 you asked to be considered to be appointed as VP of 6 marketing for Endo in 2008?</p> <p>7 A. Yes.</p> <p>8 Q. And that did not occur? You were not 9 appointed, obviously; right?</p> <p>10 A. No.</p> <p>11 Q. Okay. Was part of the feedback that you 12 received that it would be useful for you to have more 13 sales experience under your belt?</p> <p>14 A. I don't recall that.</p> <p>15 Q. Okay. You are currently employed by 16 Grunenthal USA; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Are you also employed by the Grunenthal 19 German entity?</p> <p>20 A. No. My contract is with Grunenthal USA 21 directly.</p> <p>22 Q. Okay. You mentioned earlier that 23 Grunenthal did at one point in time have a license 24 agreement with Endo in connection with the -- I think</p>

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<p style="text-align: right;">Page 74</p> <p>1 it was Intac technology; correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Does Grunenthal still have that -- is that</p> <p>4 license agreement still in effect?</p> <p>5 A. I don't have an answer to that question.</p> <p>6 That's a proprietary question for Grunenthal.</p> <p>7 Q. I'm not sure -- do you know the answer, or</p> <p>8 you do not?</p> <p>9 A. I don't know the answer because they</p> <p>10 pulled the product from the market. I don't know what</p> <p>11 the status of the actual license is.</p> <p>12 Q. Okay. Does Grunenthal, to your knowledge,</p> <p>13 have -- currently have any financial relationship with</p> <p>14 Endo?</p> <p>15 MR. LIMBACHER: Object to the form.</p> <p>16 A. Again, because the product is no longer on</p> <p>17 the market, I don't know what the actual license or</p> <p>18 relationship is financially or otherwise.</p> <p>19 Q. (By Ms. Scullion) Do you know --</p> <p>20 A. I don't deal with Grunenthal -- excuse</p> <p>21 me -- with Endo today. I don't know what they're doing</p> <p>22 with them.</p> <p>23 Q. Okay. And again, just if you know or</p> <p>24 don't know. Do you know whether Endo -- sorry --</p>	<p style="text-align: right;">Page 76</p> <p>1 identification.]</p> <p>2 MR. LIMBACHER: Thank you.</p> <p>3 Q. (By Ms. Scullion) And Exhibit Number 6 is</p> <p>4 Bates-stamped Endo CHI_LIT 00552601. And let me</p> <p>5 explain -- we're going to have to read numbers during</p> <p>6 the day here for the record. We have marked Exhibit</p> <p>7 Number 6 in the upper right-hand corner as E1396.1.</p> <p>8 Are you on the same page with me?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And Exhibit Number 6 -- this is an</p> <p>11 e-mail from you to a number of individuals dated June</p> <p>12 28, 2006, subject matter 2007 Opana strategic business</p> <p>13 planning. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And was this an e-mail that you sent out</p> <p>16 in connection with beginning the business planning</p> <p>17 process for 2007 for Opana?</p> <p>18 A. It appears to be.</p> <p>19 Q. Okay. And at the -- in the second</p> <p>20 sentence of your e-mail, you state it is vitally</p> <p>21 important that we get input from each functional area</p> <p>22 in order to make this a meaningful and robust plan for</p> <p>23 Opana and Opana ER. Is that reference to input from</p> <p>24 each functional area conveying the same idea we</p>
<p style="text-align: right;">Page 75</p> <p>1 whether Grunenthal has any agreement with Endo with</p> <p>2 respect to potential liabilities flowing from Endo's</p> <p>3 marketing and sale of reformulated Opana ER?</p> <p>4 MR. LIMBACHER: Object to the form and</p> <p>5 foundation.</p> <p>6 A. I don't know.</p> <p>7 Q. (By Ms. Scullion) Okay. Do you yourself</p> <p>8 have any current financial relationship with Endo?</p> <p>9 A. No.</p> <p>10 Q. Do you hold any Endo stock?</p> <p>11 A. No.</p> <p>12 Q. Are you being paid at all in connection</p> <p>13 with your testimony today?</p> <p>14 A. Just parking.</p> <p>15 MS. SCULLION: Yeah. Can I have 1396 and</p> <p>16 329?</p> <p>17 MR. LIMBACHER: Can we take it off the</p> <p>18 screen until we've actually shown it to the witness?</p> <p>19 MS. SCULLION: Yeah. Great. Yeah, let's</p> <p>20 do that. Thank you.</p> <p>21 MR. LIMBACHER: Thank you.</p> <p>22 Q. (By Ms. Scullion) I'm going to hand you</p> <p>23 what's been marked as Exhibit Number 6.</p> <p>24 [Exhibit Endo-Bingol-006 marked for</p>	<p style="text-align: right;">Page 77</p> <p>1 discussed earlier about having a cross functional team</p> <p>2 working on the brand plan?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And if you look at the</p> <p>5 individuals to whom you sent this e-mail. Do those</p> <p>6 include, for example, Ms. Kitlinski? Is she in</p> <p>7 clinical? Was she in clinical, rather?</p> <p>8 A. I'm not -- I don't recall her functional</p> <p>9 alignment in terms of what department she was tied to.</p> <p>10 Q. Okay. How about Mr. Barto? Do you</p> <p>11 remember he was in regulatory?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And Mr. Gould? Do you remember</p> <p>14 what department he was with?</p> <p>15 A. He was in our clinical group.</p> <p>16 Q. And there are some other names in here</p> <p>17 that look to be outside of Endo. You see Christine</p> <p>18 Connolly Smith (ph) at CHC.Inc. What was CHC?</p> <p>19 A. I forget -- I don't recall what their</p> <p>20 designation was, but I think they were -- I don't</p> <p>21 recall specifically.</p> <p>22 Q. An outside vendor assisting with</p> <p>23 marketing?</p> <p>24 A. An agency of some kind. I'm not sure what</p>

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<p style="text-align: center;">Page 78</p> <p>1 they were supporting.</p> <p>2 Q. Okay. And same thing with respect to Mr.</p> <p>3 Waterman (ph) at nyccohenwolf.com and Jennifer Jacob</p> <p>4 (ph) at nyc.cohenwolf.com. Was Cohen Wolf also an</p> <p>5 outside agency helping with promotion of Opana ER?</p> <p>6 A. They were an outside agency. I'm not sure</p> <p>7 if they were helping with promotion or not.</p> <p>8 Q. You don't recall one way or the other?</p> <p>9 A. I don't recall. Right.</p> <p>10 Q. Okay. All right. And if you go down to</p> <p>11 the bottom half of your e-mail, you reference attached</p> <p>12 you'll find two documents. First was a draft agenda</p> <p>13 for the day, and the second you say is a copy of the</p> <p>14 2006 plan. I take it when you joined Endo, there</p> <p>15 already was a brand plan in place for Opana and Opana</p> <p>16 ER; correct?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay. Well, if you look at what you</p> <p>19 reference as a copy of the 2006 plan. If you go back</p> <p>20 to page -- we've marked it in the top right-hand corner</p> <p>21 E1396.7. Wait till you get to the page. Yeah. This</p> <p>22 page is the page that comes out of the system when we</p> <p>23 load the documents that were provided by counsel, and</p> <p>24 it says file name. This comes out of the metadata for</p>	<p style="text-align: center;">Page 80</p> <p>1 A. This was almost 13 years ago. I don't</p> <p>2 recall specifically what steps I took.</p> <p>3 Q. I understand you don't recall</p> <p>4 specifically. Do you recall, though, generally taking</p> <p>5 a look and seeing what's in place, where are we going?</p> <p>6 A. I think in general I would do such a</p> <p>7 thing. I don't recall doing it.</p> <p>8 Q. Okay. Can we go to 329? This is -- and</p> <p>9 again, let's wait till I hand it out. Exhibit 7. I'll</p> <p>10 hand you what's been marked as Exhibit 7.</p> <p>11 MR. LIMBACHER: Thank you.</p> <p>12 Q. (By Ms. Scullion) And this is</p> <p>13 Bates-stamped END 00000923. And we have stamped it</p> <p>14 E329 in the upper right-hand corner. And Mr. Bingol,</p> <p>15 this is another copy of the December 12th, 2005,</p> <p>16 business plan for Opana, and you're welcome to compare</p> <p>17 that back to what we were looking at in Exhibit 6, but</p> <p>18 it does appear to be another copy of the plan. I'm</p> <p>19 going to take you to Page -- in the upper right-hand</p> <p>20 corner -- 329.15.</p> <p>21 MR. LIMBACHER: I'm just a little confused</p> <p>22 for the record. Exhibit 7 is different than Exhibit 6;</p> <p>23 right?</p> <p>24 MS. SCULLION: It is a different</p>
<p style="text-align: center;">Page 79</p> <p>1 the document and says -- the file name is 2006 Opana</p> <p>2 strat plan and that's a PowerPoint. Opana -- 2006</p> <p>3 Opana strat plan would be a reference to the Opana</p> <p>4 strategic plan for 2006; correct?</p> <p>5 MR. LIMBACHER: Object to form.</p> <p>6 A. That's what it says.</p> <p>7 Q. (By Ms. Scullion) Okay. Well, let's go</p> <p>8 on to the next couple pages. If you'll look from</p> <p>9 E1396.8 -- you can go back to -- sorry -- 1396.18,</p> <p>10 several pages that begins with the cover page saying</p> <p>11 Opana business plan, December 12th, 2005. If you just</p> <p>12 look that through and just tell me, does this appear to</p> <p>13 be the 2006 strat plan for Opana?</p> <p>14 A. I mean, that's what it says. This was</p> <p>15 created prior to my arrival.</p> <p>16 Q. Okay. But as indicated in your cover</p> <p>17 e-mail, you were using this plan as the basis to begin</p> <p>18 the planning for 2007 for Opana ER; correct?</p> <p>19 A. I don't recall this. I mean, that's what</p> <p>20 it says here, but I don't have any recollection of this</p> <p>21 document.</p> <p>22 Q. Okay. Do you recall when you joined Endo</p> <p>23 taking a look back -- just in general taking a look</p> <p>24 back at existing plans for Opana and Opana ER?</p>	<p style="text-align: center;">Page 81</p> <p>1 exhibit -- correct -- but it does appear to be a</p> <p>2 reference to the same plan. I think Exhibit 7 has</p> <p>3 additional pages beyond the portion of the plan in</p> <p>4 Exhibit 6.</p> <p>5 Q. (By Ms. Scullion) So are you on Page</p> <p>6 E329.15?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Before the break, you testified</p> <p>9 about the notion of creating awareness around a product</p> <p>10 both before -- I think before its launch. Let's just</p> <p>11 start there. Before its launch. Do you recall that</p> <p>12 Endo had made efforts to create awareness around Opana</p> <p>13 ER prior to its launch?</p> <p>14 MR. LIMBACHER: Object to form and</p> <p>15 foundation.</p> <p>16 A. I recall that when I was hired, there was</p> <p>17 no active marketing efforts in place, and we had a very</p> <p>18 short window to try to pull together the activities</p> <p>19 and/or launch planning with an expected approval in the</p> <p>20 coming months, which we had. So I don't recall</p> <p>21 specifically what kind of market prelaunch activities</p> <p>22 were done. My recollection is that we weren't doing</p> <p>23 anything until the point where I was hired, and then</p> <p>24 the product was approved very soon thereafter.</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. (By Ms. Scullion) Okay. Looking on Page 2 E329.15. It speaks to an Opana awareness crescendo. 3 And I just wanted to just ask generally, looking at -- 4 in the prelaunch section of this page, there's a 5 reference under awareness to publications, congresses, 6 national thought leaders, and CME. Do you see that? 7 A. I do. 8 Q. When you came on with Endo, did you use 9 publications to try to create awareness in connection 10 with Opana ER? 11 MR. LIMBACHER: Object to form. 12 A. Publications is part of -- a publication 13 plan is part of the awareness campaign, I guess. 14 Q. (By Ms. Scullion) And what's a 15 publication plan? 16 A. It's just taking the data that you have 17 and submitting it for peer-reviewed opportunities where 18 it might be placed in a journal or in a -- as opposed 19 to a presentation at a symposia, that type of thing. 20 Q. So these would be Endo undertaking efforts 21 to have the data, as you said, go to a peer-reviewed 22 journal and published; correct? 23 A. This would be -- yes -- 24 Q. Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1 referencing? 2 [Exhibit Endo-Bingol-007 marked for 3 identification.] 4 A. Yes. 5 Q. And then it goes on to reference national 6 thought leaders. Are those the KOLs that we discussed 7 earlier? 8 A. Yes. 9 Q. When you worked on Opana ER, did you use 10 national thought leaders to create awareness around the 11 product? 12 MR. LIMBACHER: Object to form. 13 A. Yes. 14 Q. (By Ms. Scullion) How did you do that? 15 A. As previously answered, we would mostly 16 use their input or use KOLs to help provide educational 17 opportunities for other clinicians to help them 18 understand the utility of the product, to understand 19 the risks and benefits of Opana ER, and conduct those 20 kinds of sessions where they might be having 21 face-to-face one-on-one or group meetings with their 22 peers around the country. 23 Q. (By Ms. Scullion) Okay. And it also 24 discusses CME. That's continuing medical education?</p>
<p style="text-align: right;">Page 83</p> <p>1 A. -- taking data and highlighting the risks 2 and benefits of the product and putting it in a more 3 clinical presentation and disseminating your data so 4 that more clinicians can have a better understanding of 5 the utility of the product. 6 Q. And you mentioned symposia. What were 7 symposia? 8 A. Just a variety of different professional 9 society meetings like the American Pain Foundation, or 10 the -- I forget all the other -- there's College (ph) 11 of Pain Management or something, but there were a 12 number of different professional societies focused on 13 the appropriate treatment of pain, and we would work 14 with targeting some of those venues to have your data 15 published. 16 Q. And that was another way of creating 17 awareness around the product? 18 A. It was a way of creating awareness for the 19 appropriate use of the product and the utility of the 20 product. There's different patient populations and how 21 the product should be used and considered. 22 Q. Okay. And this document E -- Exhibit 7, 23 E329.15, references congresses under awareness. Is 24 that the same thing as the symposia you're just</p>	<p style="text-align: right;">Page 85</p> <p>1 Sorry, I'm back on Exhibit 7, same page. It says CME. 2 That's continuing medical education; is that right? 3 A. That's correct. 4 Q. Did you use continuing medical education 5 to help create awareness around Opana ER? 6 MR. LIMBACHER: Object to form. 7 A. Endo would engage in continuing medical 8 education. That was really at arm's length. That was 9 done by our medical group, so we would -- by virtue of 10 whatever topic they were doing. It would often be done 11 through a third party unrestricted educational grant. 12 So those programs were there. We didn't necessarily 13 use them ourselves or direct them ourselves. 14 Q. (By Ms. Scullion) Okay. Was the medical 15 group part of the cross functional team that you 16 brought together to assist with brand planning for 17 Opana ER? 18 MR. LIMBACHER: Object to form. 19 A. Yes. 20 Q. (By Ms. Scullion) Okay. And on this same 21 page in Exhibit 7, Page E329.15, it goes on from 22 awareness -- the next column to the right is noise. Do 23 you know what noise means in respect -- in connection 24 with promoting a product?</p>

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<p>1 A. No. Again, this document predated me and 2 was created by somebody else. I don't know what 3 they're referring to per se.</p> <p>4 Q. Understood. Let me just ask you then 5 separate from the document. Did you ever talk about 6 creating noise in connection with Opana ER?</p> <p>7 A. That's not like an official term. That's 8 like a colloquialism. I don't recall using that term 9 particularly.</p> <p>10 Q. Okay. All right. And under the noise 11 column, discusses payor education. Did you use payor 12 education as part of creating awareness around Opana 13 ER?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. I don't recall educational programs for 16 payors.</p> <p>17 Q. (By Ms. Scullion) Did you make any effort 18 to engage payors in connection with creating awareness 19 around Opana ER?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. Yes.</p> <p>22 Q. (By Ms. Scullion) How did you do that?</p> <p>23 A. We had account managers, national account 24 managers, regional account managers, who would call on</p>	<p>1 MS. SCULLION: Can we mark -- thank you.</p> <p>2 Q. (By Ms. Scullion) Let me hand you what's 3 been marked as Exhibit Number 8. It is not stamped on 4 Exhibit Number 8, but the Bates number under which it 5 was produced to us on Tuesday is Bingol-opioid-MDL 6 00000369. Mr. Bingol, I'll represent to you we 7 understand that that means it was a document that came 8 from your personal collection that you pulled from your 9 desktop. Looking at Exhibit Number 8, it says building 10 the Opana ER story, leveraging public relations to 11 build market receptivity, midyear review June 2007. 12 Mr. Bingol, that was when you were director of 13 marketing for Opana ER; correct?</p> <p>14 [Exhibit Endo-Bingol-008 marked for 15 identification.]</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 Q. (By Ms. Scullion) Or sorry. I misstated 18 your title. That was when you had responsibility for 19 the promotion of Opana ER; correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 Q. (By Ms. Scullion) June 2007?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. Looking through Exhibit 8, does 24 this refresh your recollection that there was an effort</p>
<p style="text-align: center;">Page 87</p> <p>1 payors and let them know we had a new product, what the 2 price was, how it fits into their -- might fit into 3 their formulary, kind of the basics that they would 4 need to understand about the product either -- we offer 5 a formulary kit so they could understand the risks and 6 benefits of the product.</p> <p>7 And they would create the awareness that 8 way, because the payor, obviously like any other 9 customer, until they know the product is there and how 10 it fits into their practice, they won't know whether or 11 not they should include it in their formulary.</p> <p>12 Q. And again, going back to the same column 13 on Page E329.15, the next entry says public relations. 14 Did you use public relations in connection with 15 creating awareness around Opana ER?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. I don't recall specifically. I -- there 18 might have been a press release or approval or 19 something of that nature, but I don't recall a frank 20 public relations campaign.</p> <p>21 Q. (By Ms. Scullion) Did you use public 22 relations in connection with promotion of Opana ER?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. I don't recall.</p>	<p style="text-align: center;">Page 89</p> <p>1 to leverage public relations to build market 2 receptivity in connection with Opana ER?</p> <p>3 A. Yeah, I don't remember this document, but 4 yes, obviously this is -- this was an agency that was 5 retained to help us with some communications.</p> <p>6 Q. Okay. And the agency you're referring 7 to -- on the bottom right-hand corner of the front page 8 of Exhibit 8, that's Edelman?</p> <p>9 A. That's correct.</p> <p>10 Q. And that was a PR agency that Endo 11 engaged; is that right?</p> <p>12 A. That is correct.</p> <p>13 Q. Thank you. If you'll look at the second 14 page of Exhibit 8. It says PR objective, help drive 15 share acquisition. I think you mentioned earlier that 16 was a goal for Opana ER. It was to acquire share in 17 the long-acting opioid market; right?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. That's correct.</p> <p>20 Q. (By Ms. Scullion) Okay. And was the 21 principal competitive product from which Opana was -- 22 Opana ER was looking to acquire share -- was that 23 OxyContin?</p> <p>24 A. Yes.</p>

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<p>1 Q. Okay.</p> <p>2 A. As well as other long-acting morphine</p> <p>3 forms, so there was really basically two molecules. We</p> <p>4 had -- we would target both of those.</p> <p>5 Q. Was OxyContin, though, the -- did that</p> <p>6 have the largest share of the long-acting opioid market</p> <p>7 when Opana ER was launching?</p> <p>8 A. I don't recall specifically, but on a</p> <p>9 volume basis, maybe not. There are multiple forms of</p> <p>10 morphine, long-acting morphine, from MS Contin to</p> <p>11 cadienvenzen (ph) and generic forms of MS Contin, so</p> <p>12 volume-wise, probably not the market leader, but both</p> <p>13 were significant players or significant competitors for</p> <p>14 us.</p> <p>15 Q. Okay. And if you go to -- there's</p> <p>16 actually slide numbers in the lower left-hand corner.</p> <p>17 That'll help. Slide Number 3, which is entitled help</p> <p>18 drive share acquisition issues and strategic</p> <p>19 imperatives. Again, this is Exhibit 8. The right-hand</p> <p>20 side, the first bullet point, states provide physicians</p> <p>21 and managed markets with reasons to think differently</p> <p>22 about opioids and the need for Opana ER. Do you see</p> <p>23 that?</p> <p>24 A. I do.</p>	<p>1 specifically?</p> <p>2 A. The appropriate use of long-action</p> <p>3 opioids in the appropriate patient -- appropriate</p> <p>4 selected patients.</p> <p>5 Q. Okay. And it says here provide physicians</p> <p>6 and managed markets with reason to think differently</p> <p>7 about opioids. When you were managing Opana ER, was it</p> <p>8 one of your goals to have physicians think differently</p> <p>9 about their approach to opioids?</p> <p>10 A. Yes.</p> <p>11 Q. In what ways?</p> <p>12 A. We -- in general, one size does not fit</p> <p>13 all. That -- because you have one opioid painkiller</p> <p>14 doesn't mean everybody is going to benefit from that</p> <p>15 one, so in order to break through their thinking around</p> <p>16 how opioid -- what opioid to select, you have to show</p> <p>17 them that there are differences in products, and you</p> <p>18 have a choice to make, and it's not just that one</p> <p>19 opioid works for everybody.</p> <p>20 Q. And how about with respect to opioids</p> <p>21 versus other analgesic products? Was it also one of</p> <p>22 the things that was focused on, was to try to educate</p> <p>23 physicians around why use opioids versus non-opioid</p> <p>24 products for appropriate patients?</p>
<p style="text-align: center;">Page 91</p> <p>1 Q. Just taking the first half of that</p> <p>2 statement, provide physicians and managed markets with</p> <p>3 reasons to think differently about opioids. Was that</p> <p>4 something you sought to do as part of your</p> <p>5 responsibilities in connection with Opana ER?</p> <p>6 A. I don't recall this -- again, this</p> <p>7 document per se, so this statement is trying -- I think</p> <p>8 the statement just is indicating the need for</p> <p>9 differentiating your product in the marketplace and</p> <p>10 where it's going to fit in and the utility of that</p> <p>11 product amongst -- with pain patients who are not</p> <p>12 getting the pain relief they need today with the</p> <p>13 available options.</p> <p>14 Q. And you're speaking to differentiating</p> <p>15 Opana ER versus other long-action opioids -- correct --</p> <p>16 what you just talked about there?</p> <p>17 A. Correct.</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 Q. (By Ms. Scullion) Okay. In addition,</p> <p>20 though, did you also make efforts to address reasons</p> <p>21 for the medical community to use long-acting opioids</p> <p>22 generally?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 Q. (By Ms. Scullion) Not just Opana ER</p>	<p style="text-align: center;">Page 93</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. We always promoted the product based on</p> <p>3 the label, which always indicates that, you know, the</p> <p>4 use of Opana ER should be reserved for those patients</p> <p>5 for which a long-acting opioid was appropriate for</p> <p>6 round-the-clock therapy. So we were not necessarily</p> <p>7 going after or could not legitimately and would not go</p> <p>8 after necessarily patients who don't fit that category.</p> <p>9 That would not be compliant. And we always promoted</p> <p>10 the product in that way.</p> <p>11 Q. (By Ms. Scullion) Understood. And with</p> <p>12 respect to Opana ER -- I'm just asking, though, as part</p> <p>13 of that, for example, were sales reps trained on how to</p> <p>14 address concerns that physicians might express with</p> <p>15 respect to long-acting opioids generally?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. I don't recall the specific training</p> <p>18 around those -- that topic. I don't recall that.</p> <p>19 Q. (By Ms. Scullion) Do you recall in</p> <p>20 general training around that topic, though, not</p> <p>21 specifics?</p> <p>22 A. No, I don't.</p> <p>23 Q. You just don't recall one way or the</p> <p>24 other?</p>

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<p>1 A. (Shaking head "no.") No, ma'am.</p> <p>2 Q. Thank you. And next bullet point in this</p> <p>3 Exhibit 8, Page 3, says focus on current levels of</p> <p>4 dissatisfaction with opioid class and raise awareness</p> <p>5 of an appreciation for how Opana ER addresses unmet</p> <p>6 needs. Was that something you tried to do -- let me</p> <p>7 just take one part of it -- to raise awareness of an</p> <p>8 appreciation for how Opana ER could meet unmet needs?</p> <p>9 Is that something you tried to do?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Did you also try to address</p> <p>12 dissatisfaction with opioid class?</p> <p>13 A. Yes.</p> <p>14 Q. How did you do that?</p> <p>15 A. The dissatisfaction arises when patients</p> <p>16 aren't treated or maintained well on their current</p> <p>17 medication, so if they're starting -- if they started</p> <p>18 on, let's say, a morphine product or even Oxycodone,</p> <p>19 OxyContin and you're not getting the pain relief they</p> <p>20 need or they can't tolerate it, then there's a</p> <p>21 dissatisfaction there, an opportunity for another</p> <p>22 treatment for those patients, and that's what Opana ER</p> <p>23 represented for many years. Morphine and Oxycodone</p> <p>24 were the only two molecular options in the market.</p>	<p>1 Q. (By Ms. Scullion) If you go to Page 5 of</p> <p>2 Exhibit 8. This slide is titled communications,</p> <p>3 opportunity, reasons to think differently about</p> <p>4 opioids, and in the middle it's discussing responsible</p> <p>5 pain management. Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. In connection with the promotion of Opana</p> <p>8 ER, did Endo make an effort to support the general</p> <p>9 concept of responsible pain management?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. I'm sorry. Can you ask that again?</p> <p>12 Q. (By Ms. Scullion) Sure. In connection</p> <p>13 with the promotion of Opana ER --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- did Endo support the concept of</p> <p>16 responsible pain management generally?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. Endo supported the concept of responsible</p> <p>19 pain management for all of its products, Opana ER</p> <p>20 being, of course, among them, but Endo took the concept</p> <p>21 of being -- ensuring the responsible management of pain</p> <p>22 and the use of our products very seriously.</p> <p>23 Q. (By Ms. Scullion) Do you recall there</p> <p>24 being a RiskMAP associated with Opana ER?</p>
<p style="text-align: center;">Page 95</p> <p>1 This served as a welcome third option for patients who</p> <p>2 weren't getting the relief they needed.</p> <p>3 Q. Okay. Next bullet point discusses engage</p> <p>4 KOL to legitimatize messages. Is that a reference to</p> <p>5 what we discussed earlier in terms of your use of KOLs</p> <p>6 in connection with the promotion of Opana ER?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. Using KOLs as thought leaders -- they had</p> <p>9 a broad network and a broad following, and if they</p> <p>10 were -- as they work with you, it brings more</p> <p>11 credibility to the message.</p> <p>12 Q. (By Ms. Scullion) So that could help</p> <p>13 legitimatize the message that Endo wanted to send to</p> <p>14 the market about Opana ER, for example?</p> <p>15 A. It would help legitimatize the need and</p> <p>16 the utility of our product in those appropriate</p> <p>17 patients.</p> <p>18 Q. It would also help legitimatize the</p> <p>19 message; correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. That is the message, that for patients who</p> <p>22 are undertreated or not be able to get the pain relief</p> <p>23 they made with the adverse event profile they might be</p> <p>24 able to tolerate, that there's another option.</p>	<p style="text-align: center;">Page 97</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And was one of the goals of RiskMAP</p> <p>3 to address responsible pain management?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. Yes.</p> <p>6 Q. (By Ms. Scullion) Okay. What do you</p> <p>7 recall about what efforts Endo made to promote the</p> <p>8 concept of responsible pain management?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. Of course in every promotional material</p> <p>11 that we use in the field highlighted the important</p> <p>12 safety information and warnings. That was front and</p> <p>13 center on all of our materials, and then laced --</p> <p>14 interlaced throughout any promotional material in the</p> <p>15 form of fair balance.</p> <p>16 We offered tamper-proof prescription pads</p> <p>17 in order to help clinicians with the need -- because</p> <p>18 when you prescribe a Schedule II product, you have to</p> <p>19 have a triplicate pad. We had a vendor who was</p> <p>20 providing us some pads that we give away for free to</p> <p>21 clinicians to help them improve the security of their</p> <p>22 prescriptions. There's a number of initiatives. I</p> <p>23 don't recall all of them, but they were -- there was a</p> <p>24 number laid out in the RiskMAP.</p>

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<p>1 Q. Okay. Can you go to Slide 7 of Exhibit 8? 2 This is PR core tactics. The third bullet point down 3 references pain week, meet the experts. Do you see 4 that?</p> <p>5 A. I do.</p> <p>6 Q. Do you know what pain week was?</p> <p>7 A. Yes.</p> <p>8 Q. What was pain week?</p> <p>9 A. It's a professional -- it's just like the 10 American Pain Foundation. It's a pain society, an 11 organization of pain management specialists who created 12 their own annual congress.</p> <p>13 Q. And did Endo participate in pain week 14 while you were responsible for Opana ER?</p> <p>15 A. I don't know if they did every year, but I 16 think we did on occasion.</p> <p>17 Q. Okay. Put aside Exhibit Number 8 for a 18 moment.</p> <p>19 MS. SCULLION: Can I have E554, please? 20 Thank you.</p> <p>21 Q. (By Ms. Scullion) I'm going to hand you 22 what's been marked as Exhibit Number 9. And Exhibit 23 Number 9 is Bates-stamped Endo CHI_LIT 00234542, and we 24 have stamped it E554 in the upper right-hand corner.</p>	<p>1 Q. (By Ms. Scullion) Is that correct? 2 A. Yes.</p> <p>3 Q. And the second goal was to minimize abuse, 4 misuse, diversion, and other adverse events through -- 5 and it lists a number of methods; correct?</p> <p>6 A. Yes.</p> <p>7 Q. It's correct to say a RiskMAP had both 8 purposes, to promote safe use of the product, but also 9 to address risks in the product; correct?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. Yes.</p> <p>12 Q. (By Ms. Scullion) And you understand that 13 in order for this -- for Opana ER to have been approved 14 by the FDA, the FDA had to have concluded that the 15 benefits of the product outweighed the risks; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And RiskMAP was entered into by Endo in 18 order to address the risk part of that equation; 19 correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. This was Endo's agreement to show good 22 faith and to do what it could to make sure that the 23 product was used safe and effectively and to minimize 24 potential risks.</p>
<p>1 Mr. Bingol, we just spoke about the RiskMAP for Opana 2 ER. Do you recognize Exhibit Number 9 as the RiskMAP 3 for Opana ER dated June 2007?</p> <p>4 [Exhibit Endo-Bingol-009 marked for 5 identification.]</p> <p>6 MR. LIMBACHER: Take your time and review 7 the document.</p> <p>8 A. Yes.</p> <p>9 Q. (By Ms. Scullion) Okay. And in your role 10 and responsibility for Opana ER at Endo, did you become 11 generally familiar with the RiskMAP for Opana ER?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. If you could turn to Page E554.7 of 14 Exhibit 9. This is under the section entitled 15 background. Looking at the third full paragraph down 16 the page, and third sentence in that paragraph, it 17 begins thus Endo has developed. Do you see the 18 sentence?</p> <p>19 A. Yes.</p> <p>20 Q. And as indicated in this sentence, is it 21 correct that RiskMAP had two aspects to it -- a RiskMAP 22 for Opana ER had two aspects to it -- the first being 23 to promote the safe and responsible use of the product?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p>1 Q. (By Ms. Scullion) Okay. If you go to 2 Page E554.33 of Exhibit 9, and this is the conclusion 3 paragraph of the RiskMAP. Looking at the first 4 sentence in the conclusion, it states Endo understands 5 the potential risks inherent in Opana ER and thus has 6 developed a RiskMAP that can effectively minimize the 7 known risks of abuse, misuse, and diversion of Opana ER 8 while preserving its benefits. Mr. Bingol, did you 9 understand that there were in fact inherent risks in 10 Opana ER?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. Well, Opana ER is a Schedule II opioid 13 medication and has the same inherent risks as all 14 Schedule II products as determined by the DEA.</p> <p>15 Q. (By Ms. Scullion) And the inherent risks 16 are those we discussed earlier -- being abuse -- 17 correct -- was one risk?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. That's one risk.</p> <p>20 Q. (By Ms. Scullion) Misuse is another 21 inherent risk in Opana ER?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. As with all Schedule II opioids. That's 24 how they get labeled and determined to be Schedule II.</p>

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<p style="text-align: center;">Page 102</p> <p>1 Q. (By Ms. Scullion) Including Opana ER? 2 There was an inherent risk of misuse of Opana ER; 3 correct? 4 A. Yes. 5 MR. LIMBACHER: Object to form. 6 Q. (By Ms. Scullion) Inherent risk of 7 diversion of Opana ER? 8 MR. LIMBACHER: Object to form. 9 A. Yes. 10 Q. (By Ms. Scullion) Inherent risk of 11 addiction in Opana ER; correct? 12 MR. LIMBACHER: Object to form. 13 A. Again, as with all Schedule II opioids -- 14 the FDA approves it as a safe and effective drug where 15 the risks -- or the benefits outweigh the risks. 16 Q. (By Ms. Scullion) Okay. In the course of 17 promoting Opana ER, did Endo attempt to address -- 18 sorry -- address concerns that clinicians had about 19 those inherent risks in -- let's start with Opana ER? 20 MR. LIMBACHER: Object to form. 21 A. I -- when we say Endo, I'm not sure -- 22 Q. (By Ms. Scullion) How about you? Were 23 you looking at addressing clinicians' concerns about 24 the inherent risks in Opana ER as part of your effort</p>	<p style="text-align: center;">Page 104</p> <p>1 safely use Opana ER despite its inherent risks? 2 MR. LIMBACHER: Object to form. Asked and 3 answered. 4 A. Again, we promoted the proper use of the 5 product always with the clinician. I mean, that was 6 all the promotional materials, the guidance that we 7 gave from a marketing perspective was to always be 8 thorough and provide the appropriate fair balance so 9 the clinician could decide based on their expertise how 10 to use the product and which patient populations and 11 what types of scenarios they would utilize it. But we 12 were always prominent with the important safety 13 information so that the product could be used safely. 14 Q. (By Ms. Scullion) In addition to the 15 product label, Endo did undertake as part of RiskMAP 16 additional educational initiatives in connection with 17 the appropriate use of opioids; correct? 18 A. Yes. 19 Q. Okay. If you go to Page E554.10 of 20 Exhibit 9, Section 3.2 of RiskMAP. This is an entire 21 section on education for physicians, pharmacists, 22 nurses, health care professionals, as well as patients, 23 families, and caregivers; correct? 24 MR. LIMBACHER: Object to form.</p>
<p style="text-align: center;">Page 103</p> <p>1 to promote Opana ER? 2 A. We promoted the product in accordance with 3 its labeling. All of our promotional materials always 4 reviewed by our legal, medical, and regulatory review 5 to ensure that the correct safety information was 6 prevalent and obvious and usually on -- very prominent 7 on the beginning of any sales material that we had. 8 And we took that obligation very seriously to ensure 9 that clinicians understood the utility of the product 10 and the risks -- potential risks of prescribing Opana 11 ER and other Schedule II opioids. 12 Q. And was one of the efforts you undertook 13 in promoting Opana ER to explain to clinicians how 14 Opana ER could be used safely despite the inherent 15 risks in the product? 16 MR. LIMBACHER: Object to form. 17 A. We promoted the product based on its 18 labeling and based on the data that were allowed in the 19 label in terms of how it should be used, along with the 20 important safety information always being front and 21 center. 22 Q. (By Ms. Scullion) And -- but my question 23 is, but when -- in promoting Opana ER, was one of your 24 goals to ensure the clinicians knew how they could</p>	<p style="text-align: center;">Page 105</p> <p>1 A. Correct. 2 Q. (By Ms. Scullion) And the goal of this 3 education was in fact to address with those audiences 4 use of opioids despite the inherent risks in them; 5 correct? 6 MR. LIMBACHER: Object to form. 7 Q. (By Ms. Scullion) How to address those 8 risks? 9 A. The education, of course, is predicated on 10 the fact that a patient needs a long-acting opioid for 11 their pain, and once that decision is made, how to 12 minimize the risk associated with that patient's 13 treatment. 14 Q. Okay. And Endo had conducted market 15 research both before -- they did conduct market 16 research before and after the launch of Opana ER; 17 correct? 18 MR. LIMBACHER: Object to form and 19 foundation. 20 A. I don't recall what market research was 21 done prior to launch since I was there for just a very 22 short couple of months, but certainly we did market 23 research after we launched. 24 Q. (By Ms. Scullion) Okay. Those -- the</p>

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<p>1 market research included, for example, advisory boards?</p> <p>2 A. That is one component.</p> <p>3 Q. You attended some of those advisory boards</p> <p>4 yourself; right?</p> <p>5 A. Yes.</p> <p>6 Q. And market research also included message</p> <p>7 recall studies; correct?</p> <p>8 A. Message recall was part of a market</p> <p>9 research project.</p> <p>10 Q. Okay. And in the course of the market</p> <p>11 research that Endo did while you were there with</p> <p>12 respect to Opana ER, was one of the things that came</p> <p>13 back from market research that some clinicians were in</p> <p>14 fact concerned about the inherent risks of opioids?</p> <p>15 MR. LIMBACHER: Object to form.</p> <p>16 A. I don't recall specific feedback at this</p> <p>17 point.</p> <p>18 Q. (By Ms. Scullion) But in general do you</p> <p>19 recall that was one of the pieces of feedback, was that</p> <p>20 some clinicians were concerned about prescribing</p> <p>21 opioids due to their inherent risks?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. I simply don't recall specific feedback to</p> <p>24 be able to --</p>	<p>1 disclose any confidential information, but subject to</p> <p>2 that, you can go ahead and respond.</p> <p>3 Q. (By Ms. Scullion) Just any -- if there is</p> <p>4 confidential information, I'd like to know yes or no.</p> <p>5 If there is such information, then we can address the</p> <p>6 appropriate way to disclose that.</p> <p>7 A. I guess I'm confused, given that</p> <p>8 Grunenthal is a privately-held company, proprietary</p> <p>9 information. I don't know what is considered</p> <p>10 confidential versus public or what I'm allowed to</p> <p>11 disclose here.</p> <p>12 Q. Okay. Is there -- I mean, so is there</p> <p>13 anything you -- is there something you're thinking of</p> <p>14 that falls in the category I mentioned that you're not</p> <p>15 sure that you can disclose? Is that what you're</p> <p>16 saying?</p> <p>17 A. I'm not sure what I can disclose given my</p> <p>18 company's position as a privately-held company, and</p> <p>19 based on my confidentiality agreements or my</p> <p>20 confidentiality obligations I have with Grunenthal, I'm</p> <p>21 not sure what I'm allowed to discuss.</p> <p>22 Q. Okay. There is a protective order in</p> <p>23 place in this action that is designed specifically to</p> <p>24 protect confidential -- highly confidential</p>
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<p>1 Q. (By Ms. Scullion) Okay.</p> <p>2 MR. LIMBACHER: We've been going a little</p> <p>3 over an hour. Is this a good time for a break?</p> <p>4 MS. SCULLION: Yes, I think this is a good</p> <p>5 place for a break.</p> <p>6 MR. LIMBACHER: Thank you.</p> <p>7 THE VIDEOGRAPHER: Off the record at 11:35</p> <p>8 AM.</p> <p>9 [A brief recess was taken.]</p> <p>10 THE VIDEOGRAPHER: We're back on the</p> <p>11 record at 11:50 AM.</p> <p>12 Q. (By Ms. Scullion) Mr. Bingol, welcome</p> <p>13 back. You realize you're still under oath?</p> <p>14 A. Yes.</p> <p>15 Q. Thank you. You know, I asked you about</p> <p>16 whether, to your knowledge, Grunenthal has any current</p> <p>17 relationships with Endo. Do you know whether</p> <p>18 Grunenthal has any current financial relationship with</p> <p>19 any of the manufacturers of opioids? I'll give you</p> <p>20 some of the names -- okay -- that are the defense in</p> <p>21 this case. Purdue, Janssen, Johnson & Johnson,</p> <p>22 Allergan, Teva, Insys, or Mallinckrodt?</p> <p>23 MR. LIMBACHER: Object to the form and</p> <p>24 foundation, and I would caution the witness not to</p>	<p>1 information -- and it can in fact be used to protect</p> <p>2 third-party information such as Grunenthal's. And we</p> <p>3 are willing to designate your testimony on this issue</p> <p>4 as highly confidential under that protective order.</p> <p>5 MS. SCULLION: So counsel, my question is,</p> <p>6 will you permit him to answer the question?</p> <p>7 MR. LIMBACHER: Why don't we discuss it</p> <p>8 with the witness over lunch and then we can get back to</p> <p>9 you after lunch?</p> <p>10 MS. SCULLION: That's fine.</p> <p>11 Q. (By Ms. Scullion) If you go back to</p> <p>12 Exhibit Number 9, please, which is the RiskMAP. And if</p> <p>13 you turn to Page E554.18, which is at the bottom,</p> <p>14 Section 3.2.2, patient and family education. Do you</p> <p>15 see Section 3.2.2.1? And it's a reference to a patient</p> <p>16 family brochure, understanding your pain, taking oral</p> <p>17 opioid analgesics. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you recall that the sales force,</p> <p>20 the Endo sales force, had a role in distributing that</p> <p>21 brochure as part of this RiskMAP?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. Yes.</p> <p>24 Q. (By Ms. Scullion) Okay. And do you</p>

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<p style="text-align: center;">Page 110</p> <p>1 recall in connection with Opana ER a program called 2 PROMISE -- P-R-O-M-I-S-E?</p> <p>3 A. Yes.</p> <p>4 Q. What was PROMISE?</p> <p>5 A. I don't recall. I guess an acronym of 6 some kind, but it was --</p> <p>7 Q. Generally.</p> <p>8 A. It was a program to promote the 9 appropriate use of opioids.</p> <p>10 Q. Okay. And that program was implemented in 11 part in the promotional materials that Endo circulated 12 for Opana ER; correct?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. Yes.</p> <p>15 Q. (By Ms. Scullion) Okay. So PROMISE was 16 part of the promotional efforts for Opana ER?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. PROMISE was an element of the promotional 19 efforts.</p> <p>20 Q. (By Ms. Scullion) Okay. We can go back 21 to Exhibit Number 7. That's the one. And ask you to 22 turn to Page E329.13. In the right-hand -- sorry -- in 23 the column in the middle, it says leverage Endo's track 24 record. Do you see that?</p>	<p style="text-align: center;">Page 112</p> <p>1 sure that the product was used correctly and promoted 2 correctly. That's how we continued to leverage our 3 reputation, by making sure that we don't violate that 4 reputation.</p> <p>5 Q. (By Ms. Scullion) And did you seek to 6 build on that reputation as one aspect to convince 7 prescribers to use Opana ER with their patients?</p> <p>8 MR. LIMBACHER: Object to form. Asked and 9 answered.</p> <p>10 A. Again, not -- I don't think I really 11 understand the question in terms of how we leverage it, 12 but we would -- as a responsible organization in the 13 field of pain management and one company who markets 14 long-acting opioids, we took the obligation to be 15 responsible and to ensure the responsible use and 16 safety of our drug very seriously, and that was 17 something Endo did very well and earned a reputation 18 for.</p> <p>19 Q. (By Ms. Scullion) Okay.</p> <p>20 MS. SCULLION: Can I have E1379, please?</p> <p>21 Thank you.</p> <p>22 MR. LIMBACHER: Again, if we can wait 23 until the witness has actually got the document in 24 front of him before we put it up on the screen.</p>
<p style="text-align: center;">Page 111</p> <p>1 A. I do.</p> <p>2 Q. Okay. And it states -- and this is a 3 document entitled business plan for Opana dated 4 December 12th, 2005. It says as part of the 5 strategy initiative alignment, in that column, leverage 6 Endo's track record of responsible pain management and 7 leadership position in risk management. Was that 8 something you undertook to do when you were responsible 9 for promoting Opana ER? That is, leverage Endo's track 10 record of responsible pain management?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. Again, this document predated my 13 employment.</p> <p>14 Q. (By Ms. Scullion) Uh-huh.</p> <p>15 A. So I don't know in what -- how this 16 language or what these words represent, but in general 17 Endo had a very good reputation as being a responsible 18 pain management company.</p> <p>19 Q. And is that reputation something you 20 sought to leverage in the promotion of Opana ER?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. Our reputation is one we intended to 23 uphold through the responsible prescribing, use, and -- 24 of opioids and Schedule II or for Opana ER and making</p>	<p style="text-align: center;">Page 113</p> <p>1 MS. SCULLION: Yes. Thanks.</p> <p>2 MR. LIMBACHER: Thank you.</p> <p>3 Q. (By Ms. Scullion) I'm going to hand you 4 what's been marked as Exhibit Number 10.</p> <p>5 MR. LIMBACHER: Thank you.</p> <p>6 Q. (By Ms. Scullion) And for the record, 7 Exhibit Number 10 is Bates-stamped Endo Opioid MDL 8 01141511, and we've marked it in the top right-hand 9 corner E1379. Mr. Bingol, do you recall we were 10 discussing before the break your participation in 11 advisory boards in connection with Opana ER?</p> <p>12 [Exhibit Endo-Bingol-010 marked for 13 identification.]</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And does Exhibit 10 -- this is a 16 transcript of one such advisory board that took place 17 in -- on July 15th, 2006, not too far from here, the 18 Four Seasons?</p> <p>19 A. That's what's indicated.</p> <p>20 Q. Okay. No reason to doubt the accuracy of 21 the transcript of that advisory board; correct?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. No.</p> <p>24 Q. (By Ms. Scullion) Okay. If you look on</p>

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<p>1 the first page, E1379.1, the first speaker is 2 identified as Amy Romero. What was Ms. Romero's 3 position in July 2006 as best you can recall? 4 A. She was group director. 5 Q. For which group? 6 A. I'm not sure how they qualified the group 7 part in that case, but -- I don't really recall if she 8 was Opana ER only or if she had other products or not, 9 but -- 10 Q. But whatever groups she had, it did 11 include Opana ER? Fair to say? 12 A. Correct. 13 Q. Okay. 14 A. She was my line manager. 15 Q. She was your immediate supervisor? 16 A. Correct. 17 Q. Okay. And if you go to the next page, 18 E1379.2, in the paragraph that begins so you are here 19 as far as the schedule. Do you see that? 20 A. Yes. 21 Q. And then third sentence in, Ms. Romero 22 says we also have a presentation on the marketing 23 strategy and overview for Opana that would be provided 24 by Demir Bingol, our senior director on the brand. And</p>	<p>1 chairman of our board, Carol Ammon, who was for some 2 time and actually just recently moved in that position 3 who was our CEO president for some time, actually 4 worked with a small group and had a really strong 5 belief in several products here, including oxymorphone. 6 Did you ever have occasion to meet Ms. Ammon? 7 A. Maybe once. 8 Q. Okay. In what context? 9 A. Perhaps at a -- in a meeting somewhere, 10 but I had virtually no contact with her as chairman of 11 the board. 12 Q. Did you ever come to have an understanding 13 about her history with Endo, how Endo was founded and 14 developed? 15 A. Only -- 16 MR. LIMBACHER: Object to form. 17 A. Only generally speaking. It was kind of a 18 little bit of folklore on how a company gets started. 19 Q. (By Ms. Scullion) All right. And part of 20 the folklore was that she and a few others had taken a 21 portfolio of products out of DuPont Merck and founded 22 Endo? 23 A. Correct. 24 Q. Okay. And you understood that -- did you</p>
<p style="text-align: center;">Page 115</p> <p>1 so that was a reference to you were going to be doing a 2 presentation on the marketing strategy and overview for 3 Opana; correct? 4 A. Correct. 5 Q. All right. Three paragraphs down, Ms. 6 Romero discusses -- she says we were actually founded 7 in the 1920s and sold out to DuPont with Percada (ph) 8 in the pipe in the late mid-1960s, at which time 9 Percocet was launched in the mid-1970s. Do you see 10 that? 11 A. I do. 12 Q. And she's referring -- she's basically 13 sort of harkening back to the lineage for -- heritage 14 for Endo going back to 1920s; correct? 15 MR. LIMBACHER: Object to form. 16 A. That's what it says. 17 Q. (By Ms. Scullion) You remember that 18 Endo -- an entity called Endo had existed as far back 19 as 1920s? 20 A. No, I don't recall that at all, but that 21 that's the history. 22 Q. Okay. And there's a reference in this 23 paragraph, third sentence in -- she says the 24 interesting sort of newer factoid is that our current</p>	<p style="text-align: center;">Page 117</p> <p>1 understand that one of those products that was brought 2 over from DuPont Merck was oxymorphone? 3 A. So I don't recall how that product came to 4 be or where it came from, but it was already here -- it 5 was already at Endo once I joined, so I -- in my mind, 6 it was mostly about Percocet being the thing that kind 7 of got her going, but -- 8 Q. So -- sorry, I didn't mean to -- 9 A. No, no, that's -- 10 Q. When you say Percocet was the thing that 11 kind of got her going, what do you mean? 12 MR. LIMBACHER: Object to form. 13 A. It was just -- that was the product that I 14 think she brought first and -- or commercialized first, 15 and that's what kind of set the stage for all the other 16 products and the business to grow from. So that's what 17 I recall. I don't recall anything about oxymorphone as 18 a byproduct of any other moves that she may have made 19 between Endo and DuPont. 20 Q. (By Ms. Scullion) You recall that 21 Percocet was an important product to the initial 22 success of Endo under Ms. Ammon? 23 MR. LIMBACHER: Object to form. 24 A. Yes.</p>

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<p>1 Q. (By Ms. Scullion) A lot of products on 2 which Endo built its reputation in the pain 3 marketplace?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. It was one product.</p> <p>6 Q. (By Ms. Scullion) Okay. If you'll go to 7 Page E1379.4. Toward the bottom of the page you'll 8 see -- you make your introduction into the transcript, 9 Demir Bingol, and you introduce yourself. And it says 10 here you -- at the time -- I joined Endo about seven 11 weeks ago, and you reference the fact that Ms. Vitanza 12 and you joined around the same day; is that right?</p> <p>13 A. Yes. We were very close -- hired almost 14 the same time.</p> <p>15 Q. Okay. And on the next page, E1379.5, 16 about a third of the way down, then we see Ms. Vitanza. 17 She's introduced. She introduced herself, rather; 18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And Ms. Vitanza -- she -- you were her 21 supervisor, immediate supervisor; is that right?</p> <p>22 A. That's correct.</p> <p>23 Q. Was there any specific distinction in the 24 roles between yourself and Ms. Vitanza, the things that</p>	<p>1 A. Again, I don't recall this advisory board 2 in particular, so I don't know what the objective was 3 which might have driven different participants.</p> <p>4 Q. Okay. If you go to Page E1379.12. You 5 see a few times on this page the name Bill McCarberg 6 appears? Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you remember who Mr. McCarberg was?</p> <p>9 A. He was a clinician, Dr. McCarberg. I 10 don't recall his exact subspecialty.</p> <p>11 Q. Fair enough. Was he a KOL for Opana ER?</p> <p>12 A. I don't recall if he participated like in 13 speaker programs or not or merely provided input as an 14 adviser. I don't recall his full capacity.</p> <p>15 Q. Fair enough. But he's at least an 16 adviser, you think?</p> <p>17 A. Periodically. If we needed for -- like 18 this type of advisory board, he clearly participated 19 in.</p> <p>20 Q. Okay. If you go to the next page, 21 E1379.13. You see at the bottom a reference to -- 22 sorry -- the name Patricia Bruckenthal. Was that 23 another clinician participating in the advisory board? 24 She --</p>
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<p>1 she was specifically responsible for?</p> <p>2 A. The division of responsibility was 3 probably varied over time, but typically in her role 4 she might have been more responsible for working with 5 ad agencies and creating promotional materials and 6 working with the sales force.</p> <p>7 Q. Okay. She would have been familiar with 8 the core messages used to promote Opana ER let's say in 9 2006, 2007?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. Yes.</p> <p>12 Q. (By Ms. Scullion) She would have 13 understood those very well?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. Yes.</p> <p>16 Q. (By Ms. Scullion) Okay. Now, at this 17 advisory board, yourself, Ms. Romero, Ms. Vitanza are 18 there, I think some other representatives from Endo. 19 Who else attended the advisory board -- were there -- 20 who was the audience -- let me put it that way -- at 21 the advisory board?</p> <p>22 A. I don't recall other at the --</p> <p>23 Q. In general who would have been invited to 24 the advisory board?</p>	<p>1 A. I don't recall Patricia Bruckenthal at 2 all.</p> <p>3 Q. Okay. According to the transcript, Ms. 4 Bruckenthal, possibly Dr. Bruckenthal, states towards 5 the bottom in part of a discussion, oh, undertreat in 6 general, and I think that those of us who are used to 7 treating with opioids and comfortable with it are now 8 shifting to be less comfortable. You see that?</p> <p>9 A. Yes.</p> <p>10 Q. And then Dr. McCarberg responds and asks, 11 so you're less comfortable than you were? And then 12 directs a question over to Zorba Paster. Zorba, less 13 comfortable or more comfortable. You see that?</p> <p>14 A. Yes.</p> <p>15 Q. And Zorba Paster responds. Do you recall 16 who Zorba Paster was?</p> <p>17 A. I don't recall specifically. It's another 18 adviser that we would use from time to time.</p> <p>19 Q. Another clinician?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. But an adviser?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And do you recall whether Zorba 24 Paster is a man or woman?</p>

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<p>1 A. I don't recall.</p> <p>2 Q. We'll just say Zorba Paster. And then</p> <p>3 Zorba Paster in responding to Mr. McCarberg says, well,</p> <p>4 no, I think you're right about this balance. Talks</p> <p>5 about it being a continuous process. And then goes on</p> <p>6 on the next page, E1379.14, to comment, you know, the</p> <p>7 other issue is no matter how hard you try, you will</p> <p>8 always have addicts in your practice who do a great job</p> <p>9 of getting through all your screens, and then relates</p> <p>10 an anecdote about a friend's wife who came to see Zorba</p> <p>11 Paster once a year for migraine headaches, and then</p> <p>12 Zorba Paster is told by a pharmacist, you know, she</p> <p>13 sees 20 of your partners once a year for her migraine</p> <p>14 headaches. Do you recall coming to understand that</p> <p>15 this phenomenon of a patient seeing multiple doctors</p> <p>16 for opioid prescriptions was something that did occur</p> <p>17 in the long-acting opioid marketplace?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. Yes. Over a time of working within that</p> <p>20 market, the concept of doctor-shopping became apparent.</p> <p>21 Q. (By Ms. Scullion) Was one of the inherent</p> <p>22 risks of diversion with respect to Opana ER?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. It was a risk with any Schedule II opioid.</p>	<p>1 A. That's his characterization of it, but</p> <p>2 certainly some clinicians would resist prescribing a</p> <p>3 product, a Schedule II long-acting opioid, because of</p> <p>4 their own perception of what might happen within their</p> <p>5 practice.</p> <p>6 Q. (By Ms. Scullion) Okay. So is this an</p> <p>7 example of some of the feedback that you did receive</p> <p>8 that indicated some clinicians did have concerns about</p> <p>9 the inherent risks in opioids and that impacted their</p> <p>10 willingness to prescribe opioids?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. I think any physician who deals with pain</p> <p>13 patients understands that these products come with a</p> <p>14 certain risk involved. They're trained in these</p> <p>15 products. They understand the risk when they start to</p> <p>16 prescribe it. And that inherent risk is well-known and</p> <p>17 documented, and we promote with our materials -- again,</p> <p>18 the black box and safety warnings -- to highlight those</p> <p>19 inherent risks that are associated with this product --</p> <p>20 approved by the FDA as being more beneficial --</p> <p>21 benefits outweighing the risk -- but yeah, I mean,</p> <p>22 certainly if -- I would be more concerned if they</p> <p>23 didn't -- weren't aware of the potential risks because</p> <p>24 they would not be able to prescribe it properly then.</p>
<p style="text-align: center;">Page 123</p> <p>1 Q. (By Ms. Scullion) Including Opana ER;</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And then Zorba Paster goes on to</p> <p>5 say, so you know we're always going to be dealing with</p> <p>6 that, this phenomenon of doctor-shopping, but I think</p> <p>7 talking about this -- that's the crucial issue -- so</p> <p>8 you don't develop opioid phobia. Do you know what</p> <p>9 Zorba Paster is referring to with the concept of opioid</p> <p>10 phobia there?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 Foundation.</p> <p>13 A. That term is generally related to the fact</p> <p>14 that people who genuinely need these medications to</p> <p>15 help relieve their pain are afraid to take it because</p> <p>16 of potential stigma or other fears, other risks, and</p> <p>17 they go untreated or their pain is unresolved as a</p> <p>18 result of people fearful of the medications or -- that</p> <p>19 they might be prescribed.</p> <p>20 Q. (By Ms. Scullion) And Zorba Paster is</p> <p>21 referring here to, so you don't develop opioid phobia.</p> <p>22 Seems to be referring to clinicians. Do clinicians</p> <p>23 also sometimes have opioid phobia?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 125</p> <p>1 Q. (By Ms. Scullion) And was Zorba</p> <p>2 Paster there referring to a phenomenon of being -- at</p> <p>3 least a perception that Zorba Paster had of some</p> <p>4 clinicians being overly concerned about the risks such</p> <p>5 that it's an opioid phobia?</p> <p>6 MR. LIMBACHER: Object to form and</p> <p>7 foundation.</p> <p>8 A. That's his opinion, I suppose, and his</p> <p>9 characterization of it, but certainly there are</p> <p>10 clinicians who would resist prescribing it for patients</p> <p>11 who require this kind of therapy to relieve their pain.</p> <p>12 Q. (By Ms. Scullion) Let's put aside Zorba</p> <p>13 Paster's term opioid phobia. You did become aware that</p> <p>14 there were certain clinicians, though, who resisted</p> <p>15 prescribing opioids because of their concerns about the</p> <p>16 inherent risks in the products; correct?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. I would say that there were some</p> <p>19 clinicians who felt like they didn't want to take on</p> <p>20 the additional burden of making sure patients -- that</p> <p>21 they were screening patients properly, that they were</p> <p>22 able to identify appropriate patients for these kinds</p> <p>23 of medications, and rather than take on that -- what</p> <p>24 they would perceive to be as an additional burden, they</p>

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<p>1 would opt to either not prescribe them or simply refer 2 those patients to other doctors who would treat them. 3 Q. (By Ms. Scullion) So there was a concern 4 among some clinicians then about prescribing opioids, 5 as you just described? 6 MR. LIMBACHER: Object to form. 7 Q. (By Ms. Scullion) Right? 8 MR. LIMBACHER: Asked and answered. 9 A. As I just described. 10 Q. (By Ms. Scullion) Okay. And was -- were 11 those concerns something that, for example, sales reps 12 sought to address in their detailing of clinicians? 13 MR. LIMBACHER: Object to form. 14 A. Our sales reps were always trained to 15 promote the product on label, and the materials, again, 16 approved through our medical, legal, and regulatory 17 process to ensure the quality and the consistency and 18 the compliant nature of our promotional materials, and 19 always promoting the safety risks within our materials 20 and promoting it in a responsible way, in trying to 21 make sure that the appropriate patients were always the 22 ones who are being selected for these medications. 23 Our goal was to do a share acquisition. 24 We were targeting clinicians who by and large were</p>	<p>1 understanding of how we can -- how our products should 2 be used within the population. Whether or not 3 everybody had the same level of training and the same 4 level of education, I cannot speak to that, but our 5 RiskMAP and the way we promoted the product was 6 considered a kind of process of continual improvement. 7 The job is never really done because the educational 8 need is always there. 9 Q. (By Ms. Scullion) Right, but the question 10 was the fact that the lack of training of physicians 11 and other health care providers in pain treatment and 12 substance abuse management was an enormous problem in 13 June of 2007. 14 MR. LIMBACHER: Object to form. 15 Q. (By Ms. Scullion) Right? 16 A. I don't know if I understand the word 17 enormous and what that means, but clearly clinicians 18 could benefit from a reaffirmation and continual 19 improvement in terms of understanding the use and 20 safety -- the proper prescription of these products, 21 where they fit in their practice, making sure they have 22 the right safety information, and that's what Endo 23 strived to do on all of its promotional materials. 24 Q. Mr. Bingol, if you'll turn to E554.7 of</p>
<p style="text-align: center;">Page 127</p> <p>1 already prescribing long-acting opioids to take share 2 from a competitor. That was the primary goal of our 3 promotional effort. 4 Q. (By Ms. Scullion) And as part of that -- 5 strike that. You said that physicians were 6 well-trained with respect to the prescribing of 7 opioids? That's what you said; right? 8 A. Physicians are the learned intermediary. 9 They -- when they prescribe a long-acting opioid, they 10 have some knowledge about the products and what they're 11 doing, and you know, it's not something they can just 12 start tomorrow. They have to have a DEA license. They 13 have to have the appropriate prescription forms and so 14 forth. So they have on their end an obligation to 15 understand the products that they are prescribing for 16 their patients. 17 Q. And if you go back to Exhibit Number 9, 18 the RiskMAP. You recall, though, that the RiskMAP was 19 designed in part to address the fact that the lack of 20 training among physicians and other health care 21 providers in both pain treatment and substance abuse 22 management was in fact an enormous problem; right? 23 MR. LIMBACHER: Object to form. 24 A. Our process was to continually improve the</p>	<p style="text-align: center;">Page 129</p> <p>1 Exhibit 9, which you described RiskMAP as Endo's 2 agreement -- 3 A. I'm sorry. What page again? 4 Q. I'm sorry. E -- Page E554.7. 5 A. 7? Okay. 6 Q. Uh-huh. You described RiskMAP as Endo's 7 agreement about what education and other initiatives 8 they would undertake to address some of the risks 9 inherent in Opana ER; right? 10 MR. LIMBACHER: Object to form. 11 A. Correct. 12 Q. (By Ms. Scullion) Okay. And on Page 13 554.7, if you'll look in the first full paragraph that 14 begins, while addiction. Do you see that? 15 A. Yes. 16 Q. And second sentence. This is what Endo 17 said in its RiskMAP agreement. Although lack of 18 training of physicians and other health care providers 19 and pain treatment and substance abuse management is an 20 enormous problem, it is also apparent that even in the 21 hands of well-trained physicians, some patients develop 22 abuse problems that are difficult to detect and manage. 23 So Endo acknowledged the lack of training of physicians 24 and other health care providers in pain treatment and</p>

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<p style="text-align: right;">Page 130</p> <p>1 substance abuse management was in fact an enormous 2 problem as of at least June 2007; correct?</p> <p>3 A. Yeah, I --</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. You know, I'm not -- I can't speak to what 6 Endo did or didn't do in this regard. What I'm saying 7 is that, with the RiskMAP, it was a commitment that we 8 made to continually improve the education of how 9 opioids are prescribed and to make sure that our 10 product was used correctly.</p> <p>11 Q. (By Ms. Scullion) Sir, you're responsible 12 in June 2007 for the promotion of Opana ER; correct?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. Correct.</p> <p>15 Q. (By Ms. Scullion) And RiskMAP was 16 fundamental to the approval of Opana ER by FDA; 17 correct?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 Foundation.</p> <p>20 A. That, I don't recall. That would be a 21 regulatory topic in terms of whether or not it was 22 required, at what stage it was required, and when we 23 had to have it completed. I can't speak --</p> <p>24 Q. (By Ms. Scullion) Not required, but it</p>	<p style="text-align: right;">Page 132</p> <p>1 materials were in fact handed out by the sales force; 2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. All right. So RiskMAP was something that 5 was an important part of your responsibilities in 6 connection with the promotion of Opana ER; right?</p> <p>7 A. The RiskMAP provided the compliance 8 framework and our foundation of how to be a responsible 9 company along many parameters, and certainly promotion 10 was one of them, how we trained our sales reps, how we 11 created our promotional materials, and so forth.</p> <p>12 Q. And certainly then you understood that 13 Endo had acknowledged in the RiskMAP the lack of 14 training of physicians and other health care providers 15 in pain treatment and substance abuse management was an 16 enormous problem? You knew that in the course of 17 promoting Opana ER; correct?</p> <p>18 MR. LIMBACHER: Object to form and 19 foundation. Asked and answered. The document speaks 20 for itself.</p> <p>21 A. There are some clinicians who could always 22 benefit for additional educational information and 23 training in terms of how the -- what the appropriate 24 use of our medication was, and that's what we</p>
<p style="text-align: right;">Page 131</p> <p>1 was part of the approval process, the RiskMAP; correct?</p> <p>2 MR. LIMBACHER: Object to form and 3 foundation.</p> <p>4 Q. (By Ms. Scullion) You testified earlier 5 that the RiskMAP addressed the risk-benefit equation in 6 FDA's decision to approve Opana ER. Remember that?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 Foundation.</p> <p>9 A. I do remember that.</p> <p>10 Q. (By Ms. Scullion) Okay.</p> <p>11 A. But what I'm saying is that, whether or 12 not RiskMAP was approved, was part of the actual 13 approval or required at a subsequent date, I can't 14 speak to that. I don't recall that.</p> <p>15 Q. Okay. And RiskMAP was also a foundation 16 for Endo's promotion of Opana ER; correct? Had to be 17 consistent with the RiskMAP; right?</p> <p>18 A. Correct.</p> <p>19 Q. And in fact, part of RiskMAP -- for 20 example, the PROMISE initiative -- was implemented 21 through the promotional materials; right?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. Correct.</p> <p>24 Q. (By Ms. Scullion) And some of the RiskMAP</p>	<p style="text-align: right;">Page 133</p> <p>1 endeavored to do.</p> <p>2 Q. (By Ms. Scullion) Are you saying that you 3 did not know that in fact the lack of training was an 4 enormous problem -- you would not have -- you did not 5 know that?</p> <p>6 MR. LIMBACHER: Object to form. Misstates 7 his testimony.</p> <p>8 A. No. What I'm saying is that I don't know 9 any individual doctor, what their level of training may 10 or may not be and how to quantify that problem in this 11 context. I didn't write this part of the document, so 12 I can't really speak to that, but what I can say is 13 that we consistently provided this -- educational 14 efforts in order to improve on a continual basis 15 clinicians' understanding of how to appropriately use 16 our product.</p> <p>17 Q. (By Ms. Scullion) And I'm just asking, 18 when you were doing that, did you do it against the 19 background knowledge, which Endo put in its RiskMAP, 20 that the lack of training of physicians, other health 21 care providers, on pain management -- pain treatment 22 and substance abuse management -- was an enormous 23 problem?</p> <p>24 MR. LIMBACHER: Object to form. Asked and</p>

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<p style="text-align: right;">Page 134</p> <p>1 answered.</p> <p>2 A. I cannot answer what the -- when you want</p> <p>3 to point to the enormous problem -- to quantify that</p> <p>4 based on this document. I didn't write it. This is</p> <p>5 not part of what I do. What I can tell you was that we</p> <p>6 consistently promoted the product in accordance with</p> <p>7 safety and -- the safety messages and the black box</p> <p>8 warning front and prominent. We made a very conscious</p> <p>9 effort to always make sure that we were educating where</p> <p>10 we could the proper use of our product with patients.</p> <p>11 Q. (By Ms. Scullion) I'm not asking you to</p> <p>12 quantify it. I'm asking, when you're sending sales</p> <p>13 reps out there to sell Opana ER, Schedule II controlled</p> <p>14 substance, to clinicians, did you do so understanding</p> <p>15 that the clinicians they were detailing lacked training</p> <p>16 because there was an enormous problem of lack of</p> <p>17 training?</p> <p>18 MR. LIMBACHER: Object to form. Asked and</p> <p>19 answered.</p> <p>20 A. No. Every doctor has a different level of</p> <p>21 training and understanding. We did not send reps out</p> <p>22 there knowing that every doctor lacked training in pain</p> <p>23 management. That is -- that would not be correct.</p> <p>24 Q. (By Ms. Scullion) When you sent the reps</p>	<p style="text-align: right;">Page 136</p> <p>1 than somebody else. We would strive to make sure</p> <p>2 everybody had the same level of understanding.</p> <p>3 Q. You would agree if a clinician lacked the</p> <p>4 training -- lacked training for pain treatment or</p> <p>5 substance abuse management, they would not be -- your</p> <p>6 term -- a learned intermediary with respect to the</p> <p>7 prescription of Opana ER; correct?</p> <p>8 MR. LIMBACHER: Object to form and</p> <p>9 foundation.</p> <p>10 A. Again, we targeted physicians who had</p> <p>11 historically been pain management specialists, who had</p> <p>12 been prescribing long-acting opioids as a significant</p> <p>13 portion of their business, and already had awareness of</p> <p>14 these therapies, so the level of training I can't speak</p> <p>15 to.</p> <p>16 Q. (By Ms. Scullion) But there were</p> <p>17 physicians that you were calling on that would lack</p> <p>18 that training? That's why Endo acknowledged in this</p> <p>19 RiskMAP that there was an enormous problem that</p> <p>20 Endo undertook to --</p> <p>21 A. Again, Endo --</p> <p>22 Q. -- to -- wait -- I'm sorry -- that Endo</p> <p>23 took to address through this RiskMAP through the</p> <p>24 education initiatives that Endo undertook as part of</p>
<p style="text-align: right;">Page 135</p> <p>1 out there to detail on Schedule II controlled</p> <p>2 substance, did you do so with the understanding that if</p> <p>3 you looked at it broadly, there was an enormous problem</p> <p>4 of lack of training of physicians and health care</p> <p>5 providers in pain treatment and substance abuse</p> <p>6 management? Did that -- was that a concept that you</p> <p>7 had in mind at all in directing the promotion of Opana</p> <p>8 ER within -- sorry -- to clinicians?</p> <p>9 MR. LIMBACHER: Object to form. Asked and</p> <p>10 answered multiple times.</p> <p>11 A. We would not make an assumption on</p> <p>12 anybody's educational level and insisted that we always</p> <p>13 promoted the product with the same level of -- I don't</p> <p>14 know how many other ways to say it. We made no</p> <p>15 assumption on that account. We would not assume that</p> <p>16 somebody knew more than another.</p> <p>17 We would always make sure we promoted the</p> <p>18 product consistently with the label and making sure</p> <p>19 that clinicians were well aware of our particular black</p> <p>20 box warning, the safety information was there,</p> <p>21 materials always approved through our PMRB review</p> <p>22 board, and we ensured that we always treated everybody</p> <p>23 the same in that regard. We didn't -- we wouldn't say,</p> <p>24 oh, you know more than somebody else or you know less</p>	<p style="text-align: right;">Page 137</p> <p>1 RiskMAP; correct?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 Foundation. Asked and answered multiple times. I</p> <p>4 understand, counsel, you're not happy with his answers,</p> <p>5 but can we move on to another subject?</p> <p>6 MS. SCULLION: Counsel, you will refrain</p> <p>7 from making comments on the record beyond objection to</p> <p>8 form, and it's coaching the witness.</p> <p>9 MR. LIMBACHER: Well, you've asked him the</p> <p>10 same question at least --</p> <p>11 MS. SCULLION: I am not. I am asking very</p> <p>12 different questions --</p> <p>13 MR. LIMBACHER: -- a half a dozen times.</p> <p>14 MS. SCULLION: -- and he is not answering</p> <p>15 what is written in the RiskMAP, this FDA document that</p> <p>16 Endo entered into for a product that he was responsible</p> <p>17 to promote.</p> <p>18 MR. LIMBACHER: And he's explained it to</p> <p>19 you multiple times.</p> <p>20 MS. SCULLION: There --</p> <p>21 MR. LIMBACHER: -- I object to the</p> <p>22 questioning. I object to the fact that you are</p> <p>23 harassing the witness --</p> <p>24 MS. SCULLION: I am not harassing the</p>

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<p>1 witness.</p> <p>2 MR. LIMBACHER: -- by simply asking him</p> <p>3 the same thing over and over and over because you don't</p> <p>4 like the answers that you're getting.</p> <p>5 Q. (By Ms. Scullion) It's -- then very</p> <p>6 simply. Yes or no, did you understand when you were</p> <p>7 promoting Opana ER that there was an enormous problem</p> <p>8 of lack of training of physicians and other health care</p> <p>9 providers in pain treatment and substance abuse</p> <p>10 management?</p> <p>11 MR. LIMBACHER: Objection. Form. And</p> <p>12 asked and answered.</p> <p>13 A. I understood there was a variety of levels</p> <p>14 of understanding and education in the physician</p> <p>15 population. I can't speak to the enormity to it. I</p> <p>16 didn't write that statement. This was not a document</p> <p>17 that I crafted, so I cannot speak to what was being</p> <p>18 considered enormous, but yes, was there a -- does the</p> <p>19 educational or the knowledge level between one</p> <p>20 clinician and another vary? Certainly. Somebody more</p> <p>21 astute in terms of how they manage their pain practice</p> <p>22 and what they're aware of? Certainly. But I can't</p> <p>23 speak to that particular statement in that regard.</p> <p>24 Q. (By Ms. Scullion) Then if you go on in</p>	<p>1 aside the fact that it's written here, did you as an</p> <p>2 Endo employee charged with promoting Opana ER -- did</p> <p>3 you know that to be true, that even in the hands of</p> <p>4 well-trained physicians, some patients develop abuse</p> <p>5 problems that are difficult to detect and manage?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. I know that the potential risk is there</p> <p>8 regardless of what physician is prescribing the</p> <p>9 product, and that's something that everybody always has</p> <p>10 to be vigilant on, and it's a terrible thing to have to</p> <p>11 deal with and to have happen in anybody's life, but I</p> <p>12 don't know to what extent or I don't know how to</p> <p>13 qualify the physician's level of training and their</p> <p>14 expertise and how that impacts a patient's potential</p> <p>15 for becoming addicted, because maybe they have a</p> <p>16 physiologic receptivity to a molecule that nobody saw</p> <p>17 coming.</p> <p>18 There's so many variables there that I</p> <p>19 cannot speak to this in any kind of manner that --</p> <p>20 beyond what's written here on the page and what's</p> <p>21 referenced here. I can only assume that they</p> <p>22 referenced it properly and that's true.</p> <p>23 MR. LIMBACHER: We talked about shutting</p> <p>24 it down at 12:30 for lunch.</p>
<p style="text-align: center;">Page 139</p> <p>1 that same statement, Endo goes on to state, it is also</p> <p>2 apparent that even in the hands of well-trained</p> <p>3 physicians, some patients develop abuse problems that</p> <p>4 are difficult to detect and manage. Is that a true</p> <p>5 statement?</p> <p>6 MR. LIMBACHER: Objection. Form and</p> <p>7 foundation.</p> <p>8 A. That's what's written there.</p> <p>9 Q. (By Ms. Scullion) Was that a true</p> <p>10 statement?</p> <p>11 MR. LIMBACHER: Same objection.</p> <p>12 A. It's written there and it's referenced. I</p> <p>13 assume it must be true. Certainly these products have</p> <p>14 the potential to be abused and to be -- for patients or</p> <p>15 others to become addicted.</p> <p>16 Q. (By Ms. Scullion) And that was true even</p> <p>17 for a well-trained physician, that they could have</p> <p>18 patients who would develop abuse problems that they did</p> <p>19 not detect?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. Again, that's what's written there and</p> <p>22 it's referenced. I have to assume it's referencing an</p> <p>23 article and it must be true.</p> <p>24 Q. (By Ms. Scullion) Well, I mean, putting</p>	<p style="text-align: center;">Page 141</p> <p>1 MS. SCULLION: That's fine.</p> <p>2 MR. LIMBACHER: Are we at a good spot for</p> <p>3 a break?</p> <p>4 MS. SCULLION: Yes.</p> <p>5 MR. LIMBACHER: Thank you.</p> <p>6 THE VIDEOGRAPHER: Off the record at 12:32</p> <p>7 PM.</p> <p>8 [A recess was taken.]</p> <p>9 THE VIDEOGRAPHER: We're back on the</p> <p>10 record at 1:13 PM.</p> <p>11 Q. (By Ms. Scullion) Welcome back, Mr.</p> <p>12 Bingol. And you realize you're still under oath;</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Mr. Bingol, before lunch I had</p> <p>16 asked you whether, to your knowledge, Grunenthal</p> <p>17 currently has any business relationships with any of</p> <p>18 the manufacturer defendants in this case. Without</p> <p>19 answering yes or no, do you have knowledge on that</p> <p>20 topic?</p> <p>21 MR. LIMBACHER: Well, counsel, as we</p> <p>22 discussed before we went on the record, our position is</p> <p>23 that he's here testifying with regard to his work as an</p> <p>24 Endo employee. He doesn't have Grunenthal counsel for</p>

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<p>1 him here today with whom he can consult with regard to 2 what would be appropriate and under what circumstances 3 to provide information in response to questioning with 4 regard to his current employment at Grunenthal, and in 5 light of that, I'm not going to allow him to answer 6 those questions.</p> <p>7 If you need to inquire with regard to 8 Grunenthal about these issues, you're certainly free to 9 do so. And there may be an opportunity for you to ask 10 these questions of Mr. Bingol or some other 11 representative of Grunenthal down the road.</p> <p>12 MS. SCULLION: So just a few things. 13 Number One, I was just trying to lay a foundation to 14 see if there's anything to even worry about, if he has 15 any knowledge one way or the other on the issue, but I 16 understand you're instructing him not to answer that 17 question; correct?</p> <p>18 MR. LIMBACHER: That's correct.</p> <p>19 MS. SCULLION: Okay. And you do represent 20 him in his personal capacity here today; correct?</p> <p>21 MR. LIMBACHER: I do.</p> <p>22 MS. SCULLION: All right. And the 23 subpoena called for him in his personal capacity; 24 correct?</p>	<p>1 dosage form of the molecule -- was that a message that 2 you used in connection with promotion of Opana ER? 3 A. Yes, because it's the -- it is the essence 4 of the product, a tablet that's short-acting and a 5 long-acting tablet as well.</p> <p>6 Q. Okay. So by the nature of your response 7 there, you also used the message that this was a new 8 oral form of a molecule in connection with your 9 promotion of Opana IR as well; right?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. It was a new version of that molecule.</p> <p>12 Q. (By Ms. Scullion) Okay. That was a 13 message that Endo sought to deliver to clinicians in 14 connection with promotion of the two Opana products, IR 15 and ER; correct?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. That's the message, because the product is 18 what it is. It's oxymorphone and it's a dosage form 19 that was not available until now, until the approval, 20 so by virtue of simply discussing the product, you 21 discuss that it's -- what its active ingredient is and 22 how it's delivered.</p> <p>23 Q. (By Ms. Scullion) And I think as you 24 mentioned earlier, that one of the things that Endo</p>
<p style="text-align: center;">Page 143</p> <p>1 MR. LIMBACHER: The subpoena -- we can 2 argue about what it called for. It made references to 3 his time as an employee at Endo, as was already pointed 4 out.</p> <p>5 MS. SCULLION: It certainly was not 6 limited to that. We won't burden the record, but we 7 are going to reserve the right to call you back to 8 answer those questions.</p> <p>9 Q. (By Ms. Scullion) But before we move on, 10 just to be very clear, are you going to follow your 11 counsel's instructions not to answer the question?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Mr. Bingol, is it correct that one 14 of the messages Endo used in connection with promotion 15 of Opana ER and Opana was that these were new products 16 entering the oral long-acting opioid market in 2006?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. They were new forms of an old molecule.</p> <p>19 Q. (By Ms. Scullion) And what do you mean by 20 that?</p> <p>21 A. Oxymorphone had been available previously 22 as an injection also, so this was a new solid dosage 23 form of that molecule.</p> <p>24 Q. And was the fact that it was a new solid</p>	<p style="text-align: center;">Page 145</p> <p>1 sought to highlight in connection with the launch of 2 Opana and Opana ER was that this was a new alternative 3 to other long-acting opioids already in the 4 marketplace; correct?</p> <p>5 A. Correct.</p> <p>6 Q. And that was a relevant -- what Endo 7 believed to be a relevant point of distinction for 8 Opana and Opana ER in its promotion of the products to 9 the clinicians?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. The fact that patients don't all respond 12 the same to every molecule -- this gave another option 13 for those who might not be well-maintained or whose 14 pain may not be well-controlled with the two other 15 molecules that were on the market at the time -- 16 primarily morphine and Oxycodone.</p> <p>17 Q. (By Ms. Scullion) All right. So again, 18 the newness of the product was a relevant factor that 19 Endo sought to highlight to clinicians; correct?</p> <p>20 MR. LIMBACHER: Object to form. Asked and 21 answered.</p> <p>22 A. The fact that it was approved and 23 available.</p> <p>24 Q. (By Ms. Scullion) And new; correct?</p>

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<p style="text-align: center;">Page 146</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. Well, I guess I don't -- it's new by</p> <p>3 virtual of its approval, and like I said, oxymorphone</p> <p>4 had been available in the past. It was also available</p> <p>5 as an injectable. This was a new dosage form that</p> <p>6 allowed clinicians to treat pain patients that did --</p> <p>7 that were not responding well to other similar forms of</p> <p>8 existing molecules, like morphine and Oxycodone.</p> <p>9 Q. (By Ms. Scullion) Hand you what's been</p> <p>10 marked as Exhibit 11.</p> <p>11 [Exhibit Endo-Bingol-011 marked for</p> <p>12 identification.]</p> <p>13 MR. LIMBACHER: Thank you.</p> <p>14 MS. SCULLION: Yeah.</p> <p>15 Q. (By Ms. Scullion) And it's Bates-stamped</p> <p>16 END 00006991. And we have it marked in the upper</p> <p>17 right-hand corner as E977. Mr. Bingol, do you</p> <p>18 recognize Exhibit 11 as a piece of promotional</p> <p>19 literature that Endo used in connection with the</p> <p>20 promotion of Opana?</p> <p>21 A. I don't recall this being used as a</p> <p>22 promotional piece. I don't recall the piece, I guess.</p> <p>23 I would have to look through it.</p> <p>24 Q. Well, and you can do so. If I could just</p>	<p style="text-align: center;">Page 148</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. Yes.</p> <p>3 Q. (By Ms. Scullion) And did it do so in</p> <p>4 connection with Opana IR as well?</p> <p>5 A. Typically it would be one and the same, a</p> <p>6 molecule -- a review of the molecule and how it works</p> <p>7 and metabolized. This is about the science of the</p> <p>8 product, so to the -- yes, to the extent that this was</p> <p>9 one or the other, more of an overall oxymorphone review</p> <p>10 versus, say, a particular product, ER versus IR.</p> <p>11 Q. Okay. If you go to Page 977.8, which is</p> <p>12 headed at the top left-hand corner introduction</p> <p>13 oxymorphone status. Do you see that?</p> <p>14 A. I'm sorry. .8?</p> <p>15 Q. Correct. Does it say at the top</p> <p>16 introduction oxymorphone status?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And the middle of that first</p> <p>19 paragraph states the editors of Pain Medicine have</p> <p>20 decided to launch these supplements because research</p> <p>21 information about specific medications is often</p> <p>22 scattered among various journals and some --</p> <p>23 information may only be in a poster form presented at</p> <p>24 various meetings. As such, it is difficult for the</p>
<p style="text-align: center;">Page 147</p> <p>1 orient you to one thing on the front of Exhibit 11 to</p> <p>2 make sure I understand it. In the lower right-hand</p> <p>3 corner, you see what appears to be a sticker on the</p> <p>4 front of this --</p> <p>5 A. Yes.</p> <p>6 Q. -- journal. Says item number OP-0399.</p> <p>7 You see that?</p> <p>8 A. Yes.</p> <p>9 Q. Does that appear to be an item number used</p> <p>10 for tracking promotional materials within Endo?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And the OP at the beginning -- that</p> <p>13 indicates it was a promotional piece in connection with</p> <p>14 Opana; correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. If I could take you to the --</p> <p>17 strike that. Page -- here we go. Take you to Page</p> <p>18 977.6. And just looking at the bottom of that page, it</p> <p>19 indicates this supplement has been generously sponsored</p> <p>20 by Endo Pharmaceuticals; correct?</p> <p>21 A. Correct.</p> <p>22 Q. Did Endo from time to time sponsor</p> <p>23 supplements for publications such as Pain Medicine in</p> <p>24 connection with Opana ER?</p>	<p style="text-align: center;">Page 149</p> <p>1 busy clinician to get an overall impression of the</p> <p>2 status of this research. Were the statements there</p> <p>3 consistent with your experience as well, that it could</p> <p>4 be difficult for the busy clinician to get an overall</p> <p>5 impression of the status of research on a molecule such</p> <p>6 as oxymorphone?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. I don't know how to answer how clinicians</p> <p>9 get their data and understand it. This is written --</p> <p>10 not written by me, not anything I had a hand in</p> <p>11 creating, so I don't know how to quantify that either</p> <p>12 in terms of --</p> <p>13 Q. (By Ms. Scullion) Okay. So sitting here</p> <p>14 today, for example, you wouldn't dispute that</p> <p>15 statement?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. I don't know how to respond to that</p> <p>18 statement for you.</p> <p>19 Q. (By Ms. Scullion) Okay. But clearly this</p> <p>20 is a statement in a supplement sponsored by Endo, as we</p> <p>21 saw; correct?</p> <p>22 MR. LIMBACHER: Object to form. Document</p> <p>23 speaks for itself.</p> <p>24 A. That is correct, and my understanding</p>

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<p>1 these types of things are usually sponsored at arm's 2 length. The content is usually relied upon the 3 publication or the author to create this, so I don't 4 know who had what input at what time into the document. 5 We certainly sponsored the intent of publishing 6 scientific information about oxymorphone to help 7 educate the public -- the clinicians on -- to better 8 understand it so they could better use the product 9 safely within their practice.</p> <p>10 Q. (By Ms. Scullion) And based on the item 11 number on the front of Exhibit 11, would that indicate 12 it had gone through what you refer to as the PMRB 13 within Endo?</p> <p>14 A. Yes.</p> <p>15 Q. And the PMRB was an internal promotional 16 materials review board; correct?</p> <p>17 A. Correct.</p> <p>18 Q. And one of the things that the PMRB would 19 be reviewing materials for was to assess the accuracy 20 of the statements in them?</p> <p>21 A. The PMRB would be responsible for 22 reviewing the content and ensuring that the clinical 23 data and how the products is represented is accurate. 24 With respect to third-party publications, that would be</p>	<p>1 MR. LIMBACHER: Object to form and 2 foundation. Misstates his testimony.</p> <p>3 Q. (By Ms. Scullion) If I've misunderstood, 4 please correct me.</p> <p>5 A. I cannot speak exactly to what they would 6 look for in a piece like this, but the science is -- 7 you know, in fact, I would have to review this in 8 greater detail, but most of these publica -- most of 9 the articles in here seem to be republished articles or 10 otherwise other peer-reviewed journal information that 11 had been consolidated into a piece, so I wouldn't be 12 able to tell you with any great certainty to what 13 extent anything was actually reviewed, for -- what type 14 of accuracy, or if they're taking an older article 15 that's already been reviewed and because it's been 16 peer-reviewed, it's accepted. We want to make 17 sure that -- that's all I can say about it. I mean, I 18 just don't have that background on how this piece would 19 ultimately approved be.</p> <p>20 Q. Okay. But regardless of how it was 21 ultimately approved, we have confirmed it was sponsored 22 by Endo and did go through Endo's PMRB process?</p> <p>23 A. It appears to. That's what the label 24 seems to indicate.</p>
<p style="text-align: center;">Page 151</p> <p>1 somebody different bringing that through the PMRB board 2 and the exact requirements that they might have I don't 3 recall because it would not be something that was part 4 of my normal day-to-day activity.</p> <p>5 Q. Okay.</p> <p>6 A. I would not bring a piece necessarily like 7 this through.</p> <p>8 Q. Understood. So who would have been 9 bringing a piece like this through the PMRB, to the 10 best of your recollection?</p> <p>11 MR. LIMBACHER: Object to form and 12 foundation.</p> <p>13 A. It might have been our medical liaison 14 group. It could have been also marketing as well, but 15 I don't recall this piece as such, so I don't know how 16 it was brought through, but in terms of, you know, the 17 checking for accuracy and editorial comment, that's the 18 point of having an unrestricted educational grant or 19 funding this through supplement where we're not 20 necessarily controlling that editorial content.</p> <p>21 Q. (By Ms. Scullion) Okay. But it would be 22 reviewed for the accuracy of the statements about the 23 molecule itself -- correct -- the science around the 24 molecule?</p>	<p style="text-align: center;">Page 153</p> <p>1 Q. Okay. So it was available for use, for 2 example, by the sales force in detailing clinicians?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. It would be available for some sort of 5 promotional activity. I don't recall if it was 6 distributed widely through the sales force or if it 7 were through other kinds of interactions at a 8 convention or something like that, but it would be 9 available.</p> <p>10 Q. (By Ms. Scullion) It could have been used 11 in any of those settings -- you said conventions, 12 detailing -- correct?</p> <p>13 MR. LIMBACHER: Object to form. Misstates 14 his testimony.</p> <p>15 A. It could be -- it was available. How it 16 was used, I don't recall exactly.</p> <p>17 Q. (By Ms. Scullion) Understood. If you'll 18 go to Page E977.10. And this is an article, clinical 19 pharmacology of oxymorphone. Under the heading 20 introduction, states oxymorphone is a semi-synthetic 21 new opioid receptor agonist which entered the United 22 States marketplace in 1959, available at the time in 23 only parenteral and rectal formulations. Correct? 24 That's what it states?</p>

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<p>1 A. That's correct.</p> <p>2 Q. So someone -- a clinician reading this</p> <p>3 would understand that oxymorphone had not been</p> <p>4 available, for example, in oral form back in the 1950s;</p> <p>5 correct?</p> <p>6 MR. LIMBACHER: Object to form and</p> <p>7 foundation.</p> <p>8 A. That's what it states.</p> <p>9 Q. (By Ms. Scullion) And then it goes to</p> <p>10 state in this paragraph, in June 2006 oral oxymorphone</p> <p>11 immediate-release, IR, and oxymorphone</p> <p>12 extended-release, ER, tablets were approved by the FDA.</p> <p>13 And so a clinician reading this would understand that</p> <p>14 that is when an oral form of oxymorphone became</p> <p>15 available, was in -- after the FDA approval in June</p> <p>16 2006; correct?</p> <p>17 MR. LIMBACHER: Object to form and</p> <p>18 foundation.</p> <p>19 A. That's what it reads.</p> <p>20 Q. (By Ms. Scullion) That's what a clinician</p> <p>21 reading this would understand?</p> <p>22 MR. LIMBACHER: Object to form and</p> <p>23 foundation.</p> <p>24 A. That's what's written here on the page. I</p>	<p>1 A. That's a verbatim reading of what it says.</p> <p>2 MS. SCULLION: Can I have E520, please?</p> <p>3 Q. (By Ms. Scullion) Okay. Hand you what's</p> <p>4 been marked as Exhibit Number 12. And this is</p> <p>5 Bates-stamped Endo Opioid MDL 0100157 -- sorry -- 1527.</p> <p>6 And we've stamped it in the upper right-hand corner</p> <p>7 E520. And Mr. Bingol, draw your attention to the</p> <p>8 e-mail in the middle of the first page, E520.1. This</p> <p>9 is an e-mail from you to Ron Wickline and Amy Romero</p> <p>10 dated September 5th, 2006, subject matter field voice</p> <p>11 message; correct?</p> <p>12 [Exhibit Endo-Bingol-012 marked for</p> <p>13 identification.]</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, you mentioned earlier in your</p> <p>16 testimony that Endo had focused its promotion of Opana</p> <p>17 ER to clinicians who were writing large amounts of</p> <p>18 opioids; correct?</p> <p>19 MR. LIMBACHER: Object to form. Misstates</p> <p>20 his testimony.</p> <p>21 A. We targeted clinicians who were</p> <p>22 prescribing competitor products as part of our share</p> <p>23 acquisition strategy.</p> <p>24 Q. (By Ms. Scullion) Okay. And did you look</p>
<p style="text-align: center;">Page 155</p> <p>1 mean, it's pretty straightforward.</p> <p>2 Q. (By Ms. Scullion) Definitely it's very</p> <p>3 straightforward; right? And if you go similarly to</p> <p>4 Page 977.49, which is part of an article that starts on</p> <p>5 Page 977.46, just to orient you. Page 977.49 -- again,</p> <p>6 this article states, left-hand column, first full</p> <p>7 paragraph, oxymorphone in both IR and ER formulations</p> <p>8 is one of the newest additions to the opioid</p> <p>9 armamentarium and is recommended in the literature as</p> <p>10 an opioid to be considered in opioid rotation.</p> <p>11 Correct?</p> <p>12 A. That's what's written.</p> <p>13 Q. And so, again, a reasonable clinician</p> <p>14 reading this would come away with the understanding</p> <p>15 that oxymorphone in IR oral formulation was a new</p> <p>16 addition to the opioid armamentarium as of the date of</p> <p>17 this article?</p> <p>18 MR. LIMBACHER: Object to form and</p> <p>19 foundation.</p> <p>20 A. That's what's written. Again, I can't</p> <p>21 speak to what a clinician might think or perceive.</p> <p>22 Q. (By Ms. Scullion) But that's a pretty</p> <p>23 straightforward reading of what that says; right?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 157</p> <p>1 just at the volume of the competitor products that they</p> <p>2 were writing? That was what you looked at in terms of</p> <p>3 targeting?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. Probably initially.</p> <p>6 Q. (By Ms. Scullion) Okay. And so taking</p> <p>7 you to the third paragraph of your e-mail. And this</p> <p>8 is, again, a few months into the launch. You're</p> <p>9 talking about monthly results for July. And you</p> <p>10 stated, Mr. Wickline and Ms. Romero, in terms of</p> <p>11 messages for reinforcement, I have two that I'd like to</p> <p>12 offer. First, we need to apply as much frequency as</p> <p>13 possible, perhaps even weekly, to our top four deciles.</p> <p>14 What does that mean, top four deciles?</p> <p>15 A. A decile is one method by which you</p> <p>16 segment your target list. Perhaps you can divide</p> <p>17 things into tenths and therefore, depending on how you</p> <p>18 approach it, your best -- or your most, let's say,</p> <p>19 target-rich decile may be Number 10 or it may be Number</p> <p>20 One. Some people arrange it, you know, different ways.</p> <p>21 But the top four deciles would have been those targets</p> <p>22 that were. For whatever reason, however they were</p> <p>23 decided, deemed to be the most opportunity-rich.</p> <p>24 Q. And in terms of it being the most</p>

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<p style="text-align: center;">Page 158</p> <p>1 opportunity-rich, that's based on, as you go on to 2 state a couple sentences down, these docs are the most 3 receptive to our message write opioid analgesics on a 4 large-scale basis, and provide more than ample 5 opportunity to meet our 2006 -- share requirements; 6 correct?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. That's what it says.</p> <p>9 Q. (By Ms. Scullion) That accurately 10 captures the concept of these being the target-rich 11 deciles?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. Yes. Not remember -- I don't recall what 14 was going into the deciling because you can decide by a 15 number of features, but in this case these deciles were 16 made up of a relatively small number of doctors who 17 prescribed about 40 percent of the market, so this is 18 showing that we made a concerted effort to focus on 19 those doctors who were already prescribing our 20 competitor's products and that that's where we should 21 really focus a lot, if not, you know, most, of our 22 energy, talking to those clinicians, because the 23 targets we had were relatively modest in terms of 24 prescription volumes compared to what the rest of the</p>	<p style="text-align: center;">Page 160</p> <p>1 especially important to get an Opana ER total 2 prescription market share of 1.8 percent by December?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. I don't recall the specific time or event.</p> <p>5 There was a number of points in time over the course of 6 the first few years that we were marketing where 7 availability of OxyContin was shorted or they 8 had generics that were coming in and then going out, so 9 I don't recall which event was occurring, but there was 10 clearly something happening with that particular 11 product that made an opportunity for us or at least we 12 perceived that there was an opportunity to have -- 13 again, to take more share from that product based on 14 whatever was happening at that time.</p> <p>15 Q. (By Ms. Scullion) Okay. You then go on 16 to -- your next paragraph states, second, I would like 17 to reinforce the two pillars of the Opana ER strategy. 18 And you describe the first pillar as being durable 19 efficacy; correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And in the next sentence you explain the 22 fact that Opana ER has been demonstrated to maintain 23 its analgesic efficacy over the 12-hour dosing period 24 and that Opana ER's every-12-hour dosing held up for</p>
<p style="text-align: center;">Page 159</p> <p>1 market -- what these guys represented in their 2 prescribing habits.</p> <p>3 Q. And they weren't just, again, clinicians 4 who wrote your competitors' opioids, but they wrote 5 them on a large-scale basis? That was what part of 6 made them a target-rich decile; correct?</p> <p>7 A. Relative --</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 Q. (By Ms. Scullion) Relative to?</p> <p>10 A. To others in their category.</p> <p>11 Q. So these were clinicians who were writing 12 relatively more opioid prescriptions than other 13 clinicians; correct?</p> <p>14 A. Yes. This was why they were decided a 15 certain way, based on their prescribing habits.</p> <p>16 Q. Okay. At the end of this paragraph you 17 say, we need an Opana ER total prescription market 18 share of 1.8 percent by December. This is also 19 especially important given the CI we are getting on 20 OxyContin. CI there means competitive intelligence; 21 right?</p> <p>22 A. That's correct.</p> <p>23 Q. What was it about the competitive 24 intelligence on OxyContin in fall of 2006 that made it</p>	<p style="text-align: center;">Page 161</p> <p>1 over 12 weeks is critical in differentiating our 2 product from others. That sentence explains the pillar 3 of durable efficacy that you were pointing to?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. That's correct.</p> <p>6 Q. (By Ms. Scullion) Okay. And durable 7 efficacy described as a pillar of the Opana ER 8 strategy. This is September of 2006. Did durable 9 efficacy continue to be a pillar of the Opana 10 ER strategy, at least for original Opana ER, for the 11 period that it was promoted?</p> <p>12 A. The duration of effect and the consistency 13 of the effect was certainly a key message. Whether we 14 called it durable efficacy or tried to characterize it 15 a different way may have changed over time, but the 16 concept of dosing every 12 hours and having that be 17 robust I believe was consistent throughout the period.</p> <p>18 Q. Right. So the concept you describe here 19 in Exhibit 12 is whether -- you say whether it was 20 used -- same term -- durable efficacy or something 21 else -- continued to be an important pillar of 22 promotion of Opana ER original formulation?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. Yes, this pillar is important because it</p>

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<p style="text-align: center;">Page 162</p> <p>1 allows patients to understand -- clinicians to 2 understand that they can have a certain consistency of 3 expectation with regard to how this opioid is going to 4 help relieve those patients' pain, and so making sure 5 that we did work or demonstrating that Opana ER worked 6 as indicated on the label was an important component of 7 our messaging.</p> <p>8 Q. (By Ms. Scullion) Okay.</p> <p>9 MS. SCULLION: Can I have 1522, please?</p> <p>10 Q. (By Ms. Scullion) Let me hand you what's 11 been marked as Exhibit 13, and this is Bates-stamped 12 Endo Opioid MDL 00880735, and we've marked it in the 13 upper right-hand corner E1522. Mr. Bingol, Exhibit 13 14 is an e-mail that you wrote to David Kerr and others 15 dated October 16th, 2006; correct?</p> <p>16 [Exhibit Endo-Bingol-013 marked for 17 identification.]</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And you state in the first 20 sentence, Dave asked about the primary reasons for the 21 current sales trajectory not meeting prelaunch 22 expectation. Is that a reference to Mr. Kerr asking 23 for your insights and others about why sales for Opana 24 ER were not reaching the levels that had been expected</p>	<p style="text-align: center;">Page 164</p> <p>1 sales representatives who were still getting up to 2 speed?</p> <p>3 A. Yes.</p> <p>4 Q. And then you then go on to list certain 5 action items following from the meeting. And the first 6 action item you say, sales to provide an analysis of 7 territory performance of tenured reps versus new hire 8 with little or pharma experience. The reference to new 9 hire with little experience -- is that a reference to 10 Endo having recently retained sales reps who had at 11 that point little experience?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. I don't recall exactly, you know, what the 14 makeup of the sales force was or who and when they 15 hired, but presumably in a hypothesis, that the ones 16 that were more tenured had more ability to be ready and 17 to go than those who were less tenured.</p> <p>18 Q. (By Ms. Scullion) Okay. And then you go 19 on to say, we also discussed the three things that need 20 to do right now in order to achieve 12,000 21 prescriptions per week in 2006. I take it that was in 22 fact the sales target as of the date of your e-mail; 23 correct? 12,000 prescriptions a week?</p> <p>24 A. I don't recall if that was the forecast or</p>
<p style="text-align: center;">Page 163</p> <p>1 prelaunch?</p> <p>2 A. He was asking the group, but certainly 3 wanting to understand the difference of performance 4 versus expectation.</p> <p>5 Q. Okay. And in responding -- strike that. 6 You are summarizing the discussion that happened at a 7 meeting on that issue; correct?</p> <p>8 A. Can I read the whole thing and --</p> <p>9 Q. Sure. Absolutely.</p> <p>10 A. Okay.</p> <p>11 Q. You had a chance to read through Exhibit 12 13?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And so you are summarizing a 15 discussion that happened at a meeting to discuss Mr. 16 Kerr's inquiry about what were the reasons sales of 17 Opana ER were not up to prelaunch expectations; right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And my understanding from reading 20 this is that one of the primary reasons discussed was 21 that the launch had been delayed to a certain extent; 22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Also discussed the fact that Endo had new</p>	<p style="text-align: center;">Page 165</p> <p>1 if that was a recalibration to know what we needed to 2 do in order to reach a particular number at the end of 3 the year, but that was a -- some target that was 4 calculated at this point in time.</p> <p>5 Q. So it's -- this may have been a calculus 6 for where Endo wanted to be by the end of 2006, was a 7 12,000-prescriptions-per-week target?</p> <p>8 A. That is what this says. My point is that 9 I don't know if that was the original forecast or a 10 recalibrated forecast based on the current performance.</p> <p>11 Q. Okay. With respect to the 12,000 12 prescriptions per week in 2006, you then go on to have 13 in your first bullet point under that one of the things 14 that was discussed at the meeting was continue to focus 15 on Decile 7 to 10 with high-frequency call volume. And 16 again, that's a reference to targeting those highest 17 target-rich deciles of clinicians; correct?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. Correct.</p> <p>20 Q. (By Ms. Scullion) And high-frequency call 21 volume referred to how often the sales reps would be 22 detailing that target -- those target-rich deciles; 23 correct?</p> <p>24 MR. LIMBACHER: Object to form.</p>

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<p>1 A. That's correct.</p> <p>2 Q. (By Ms. Scullion) And then you say, in</p> <p>3 addition to focusing on the highest per capita</p> <p>4 prescribers, this tactic will also drive much-needed</p> <p>5 adoption with specialists -- excuse me -- specialists,</p> <p>6 which in turn will help drive FP prescribing behavior.</p> <p>7 What did FP refer to there?</p> <p>8 A. I don't really recall. Family</p> <p>9 practitioner, I think is what that means.</p> <p>10 Q. And that's in contrast to specialists;</p> <p>11 correct?</p> <p>12 A. No, not necessarily.</p> <p>13 Q. Okay. Let me und -- what did you mean --</p> <p>14 what was meant by the idea of the focus on the Decile 7</p> <p>15 to 10 with high frequency will also drive much-needed</p> <p>16 adoption with specialists, which in turn will help</p> <p>17 drive FP prescribing behavior?</p> <p>18 A. So in the pain market you have specialists</p> <p>19 who are -- you know, certified pain management</p> <p>20 specialists are a relatively small group of people. In</p> <p>21 many communities family practitioners take on the task</p> <p>22 of pain management and are de facto the specialist in</p> <p>23 their area, so you have -- some communities don't have,</p> <p>24 because of the lack of actual certified pain management</p>	<p>1 specialists within a region sharing with, say, family</p> <p>2 practitioners the specialists' experience using Opana</p> <p>3 ER?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. As previously answered, we did run</p> <p>6 promotional programs with KOLs or thought leaders who</p> <p>7 would perhaps have one-on-one or group discussions with</p> <p>8 Endo-approved materials with appropriate promotional</p> <p>9 information about the product, and to help ensure that</p> <p>10 clinicians who were considering our product in the</p> <p>11 context of their practice would do so safely and</p> <p>12 effectively.</p> <p>13 Q. (By Ms. Scullion) Okay. And were you --</p> <p>14 what you just described -- was that part of what would</p> <p>15 help drive family practitioner prescribing behavior for</p> <p>16 Opana ER?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. What I just described was an educational</p> <p>19 opportunity for those practitioners, and certainly</p> <p>20 learning more about the product and understanding how</p> <p>21 to use it safely and effectively would obviously be an</p> <p>22 encouragement to try the product and their population</p> <p>23 where needed.</p> <p>24 Q. (By Ms. Scullion) And that was one of the</p>
<p style="text-align: center;">Page 167</p> <p>1 specialists, access to somebody who can do their pain</p> <p>2 management.</p> <p>3 These FPs are in those deciles and</p> <p>4 represent -- again, the prescribing pattern of</p> <p>5 long-acting opioids and our ability to -- they were</p> <p>6 slower adopters because they were family practitioners,</p> <p>7 but they were certainly ones who were considered to be</p> <p>8 the local pain management expert in town.</p> <p>9 Q. And you say they were slower adopters.</p> <p>10 Why were they slower adopters?</p> <p>11 A. Just generally speaking, as a family</p> <p>12 practice physician, their rate of adoption for new</p> <p>13 products is not as quick as any specialist. It's true</p> <p>14 for most categories of products. The specialists are</p> <p>15 usually the first adopters to try it out, see how it</p> <p>16 works. They start to make, you know, certain</p> <p>17 recommendations to other clinicians in their region --</p> <p>18 however, they might disseminate their experience with a</p> <p>19 product. But just on an adoption curve basis, your</p> <p>20 specialists generally speaking are just quicker to</p> <p>21 adopt anything.</p> <p>22 Q. In terms of specialists spreading</p> <p>23 information about their use of a product -- let's say</p> <p>24 Opana ER -- did you do anything to try to facilitate</p>	<p style="text-align: center;">Page 169</p> <p>1 reasons that Endo used these speaker programs, speaker</p> <p>2 opportunities, as part of its promotional efforts;</p> <p>3 correct?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. Correct.</p> <p>6 Q. (By Ms. Scullion) Okay. Next bullet</p> <p>7 point says, keep accelerating program and promotional</p> <p>8 spends (ph) as feasible in order to generate as much</p> <p>9 promotional noise as possible to support focused sales</p> <p>10 targeting. What did you mean by promotional noise</p> <p>11 there?</p> <p>12 A. Again, as a competitive product working in</p> <p>13 a competitive environment, you try to make sure your</p> <p>14 messages are being heard with your customers as it</p> <p>15 relates to the competition. They're in their office</p> <p>16 also giving their messages and providing their</p> <p>17 materials, and so you have to -- in order to take share</p> <p>18 effectively, you have to have a certain level of --</p> <p>19 call it noise, call it promotional presence,</p> <p>20 whatever -- to break through the clutter and to have</p> <p>21 your product be considered in their choice set.</p> <p>22 Q. And then your last bullet point, take</p> <p>23 advantage of current market dynamics in order to</p> <p>24 position Opana ER in a favorable or at the very least</p>

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<p>1 in a non-disadvantaged position versus OxyContin. What 2 did you mean by that?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. Again, I don't recall the specific issue 5 with OxyContin at that time, so I don't remember 6 exactly why or how non-disadvantaged versus OxyContin 7 means in this context. I don't remember.</p> <p>8 Q. (By Ms. Scullion) Okay.</p> <p>9 MS. SCULLION: Could I have 1378, please?</p> <p>10 Thank you.</p> <p>11 Q. (By Ms. Scullion) I'll hand you what's 12 been marked as Exhibit 14, and this is Bates-stamped 13 Endo Opioid MDL 04118668, and we've stamped it E1378. 14 And Mr. Bingol, Exhibit 14 is a series of e-mails, 15 which if you start at the back begins with an e-mail 16 from someone identified as Ms. Ken Brake (ph), and it's 17 going to general information. It's then forwarded on 18 to you and others at Endo by Ms. Edie Dawson. And then 19 in the middle of Page E1378.3, we have your response to 20 that part of the e-mail chain.</p> <p>21 [Exhibit Endo-Bingol-014 marked for 22 identification.]</p> <p>23 A. Okay.</p> <p>24 Q. And that's where I wanted to focus you.</p>	<p>1 not foggy; correct?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. It refers more to the normal and not foggy 4 portion. The CNS effects could be different by patient 5 then -- this was one of the -- you know, relative to 6 other products in the market -- morphine especially 7 problematic in that regard -- that this was a signal 8 that might be a reason for opioid rotation and trying 9 our product with particular patients, and so if you can 10 demonstrate that through some sort of study, then maybe 11 that data would lead to the ability to have that in 12 your label, or at the least get a signal and then know 13 where to go from there on a research basis.</p> <p>14 Q. (By Ms. Scullion) Okay. And those 15 cognitive effects -- how do they relate to whether the 16 product is or is not addictive?</p> <p>17 MR. LIMBACHER: Object to form and 18 foundation.</p> <p>19 A. I can't speak to that. I don't know the 20 pharmaco dynamics of how that would work.</p> <p>21 Q. (By Ms. Scullion) Did Endo ever perform a 22 cognitive study on Opana ER original formulation?</p> <p>23 A. Yes.</p> <p>24 Q. And what did that cognitive study</p>
<p style="text-align: center;">Page 171</p> <p>1 A. Can I read the whole thing, please?</p> <p>2 Q. You absolutely can. Have you had a chance 3 to read it?</p> <p>4 A. Yes. Thank you.</p> <p>5 Q. Sure. So again, starting at the back of 6 the exhibit, looking at the e-mail from Ken Brake, the 7 e-mail represents that it's from somebody who has taken 8 Opana ER and is comparing it to their experience on 9 OxyContin. And in the second-to-last sentence on Page 10 1378.4, the e-mail states, you product -- your 11 product -- you product has no signs of becoming 12 addictive, in my opinion. You feel normal and not 13 foggy. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And then if you go back to E1378.3. 16 Again, Ms. Dawson forwards this e-mail to you and to 17 others, and in your response in the middle of Page 18 1378.3 you say, perhaps we should conduct some kind of 19 cognition study that demonstrates the phenomena 20 described below. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And you're referring to the phenomenon Ken 23 Brake has described as your product has no signs of 24 becoming addictive, in my opinion; you feel normal and</p>	<p style="text-align: center;">Page 173</p> <p>1 demonstrate?</p> <p>2 A. I recall the study. I recall the kind of 3 study it was. The output or the outcome as I remember 4 was relatively positive for oxymorphone, but I don't 5 recall specifics in terms of, you know, any kind of 6 hard data or conclusions.</p> <p>7 Q. Do you know whether Endo did apply to 8 change the label from Opana ER original formulation 9 based on that study?</p> <p>10 A. No, not while I was there. I don't know 11 of any effort.</p> <p>12 Q. Okay. To the best of your knowledge, it 13 did not apply for such a label change based on the 14 study while you were there?</p> <p>15 A. Not while I was there.</p> <p>16 Q. Okay.</p> <p>17 MS. SCULLION: Can I have 1169?</p> <p>18 Q. (By Ms. Scullion) Hand you what's been 19 marked as Exhibit 15, and that's Bates-stamped Endo 20 Opioid MDL 01723746. And Mr. Bingol, I am going to 21 take you through the document in some detail. You're 22 welcome to look it over and get oriented to it, but I'm 23 going to step through in some detail if you -- if you 24 like, I can take you through the report itself. You've</p>

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<p>1 oriented yourself to Exhibit 15?</p> <p>2 [Exhibit Endo-Bingol-015 marked for</p> <p>3 identification.]</p> <p>4 A. Okay.</p> <p>5 Q. Okay. So looking on the first page of</p> <p>6 Exhibit 15, this is an e-mail from you to David Kerr</p> <p>7 and others dated October 2nd, 2007. And the subject is</p> <p>8 Opana Fastape study. And this looks to be an e-mail</p> <p>9 from you discussing the final report of the Opana</p> <p>10 Fastape study, which is attached to the e-mail; is that</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. What was the Fastape study?</p> <p>14 A. It's a -- I don't recall the underpinnings</p> <p>15 of how the research is done, but it's a specific type</p> <p>16 of relatively quick market research study in order to</p> <p>17 gauge and assess what's happening with your sales force</p> <p>18 and product and perceptions thereof.</p> <p>19 Q. Okay. So it's one piece of market</p> <p>20 research that Endo conducted in connection with, in</p> <p>21 this case, Opana ER?</p> <p>22 A. That's correct.</p> <p>23 Q. And a piece of market research that -- one</p> <p>24 of the pieces of market research that you then used in</p>	<p>1 Endo specifically.</p> <p>2 Q. (By Ms. Scullion) Okay. But you then --</p> <p>3 but I mean, obviously you then circulated to your</p> <p>4 colleagues as something they should look over in the</p> <p>5 course of their duties; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. If you go to Page E1169.8, which is</p> <p>8 entitled introduction objectives. Looking at the</p> <p>9 objectives, under the second full bullet point, first</p> <p>10 like checkmark there, it says evaluate the content of</p> <p>11 the messages communicated to physicians by measuring</p> <p>12 unaided and aided message recall and response for Opana</p> <p>13 and competitors. Looking at that, does that refresh</p> <p>14 your recollection about at least one objective of the</p> <p>15 Fastape study?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. Yes.</p> <p>18 Q. (By Ms. Scullion) Okay. And then if you</p> <p>19 go to the next page, E1169.9, it describes the method</p> <p>20 for the Fastape study. Indicates under the heading</p> <p>21 data collection that Endo had provided a list of target</p> <p>22 physicians that the vendor, GfK Market Measures, then</p> <p>23 matched to its database to see which physicians had</p> <p>24 opted into participating in such research; correct?</p>
<p style="text-align: center;">Page 175</p> <p>1 connection with the promotion of Opana ER?</p> <p>2 A. We didn't use it in conjunction with</p> <p>3 promotion. It was helping us understand the effect of</p> <p>4 what we were doing in the marketplace.</p> <p>5 Q. Okay. Fair enough. So it's helping you</p> <p>6 assess the effect of the promotion that had taken</p> <p>7 place; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And I assume since you have</p> <p>10 commented on the study in your cover e-mail, that you</p> <p>11 at the time would have read the study in some detail;</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. I should say, you would have read the</p> <p>15 final report of the study in some detail; correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. If you go to Page E1169.5. It's</p> <p>18 the beginning of a PowerPoint presentation. And this</p> <p>19 is a PowerPoint presentation that was prepared</p> <p>20 internally by Endo to summarize the Fastape research;</p> <p>21 correct?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. I don't know who actually put it together,</p> <p>24 if the vendor had a hand in it or if it was done by</p>	<p style="text-align: center;">Page 177</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. And if you go to E1169.12. And the</p> <p>3 summary of key findings states under the first bullet</p> <p>4 point, on aided (ph) basis, two-thirds of physicians</p> <p>5 recall the Opana ER message true every-12-hour dosing.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And that message, true every-12-hour</p> <p>9 dosing -- that was one of the key messages for Opana ER</p> <p>10 original formulation at this time; correct?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. Yes.</p> <p>13 Q. (By Ms. Scullion) And the label, of</p> <p>14 course, stated that the dosing for Opana ER original</p> <p>15 formulation was 12-hour dosing; correct?</p> <p>16 A. That's correct.</p> <p>17 Q. What was conveyed by saying it was true</p> <p>18 every-12-hour dosing. What would be untrue</p> <p>19 every-12-hour dosing?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. If the product didn't maintain its dosing</p> <p>22 interval, if somehow you needed to take more doses more</p> <p>23 frequently.</p> <p>24 Q. (By Ms. Scullion) Okay. Do you recall</p>

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<p>1 whether -- that OxyContin also had 12-hour dosing on 2 its label at this time?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall there being experience, 5 though, in clinical practice that patients had to take 6 OxyContin more frequently than every 12 hours?</p> <p>7 A. Yes.</p> <p>8 Q. And that was a concern, at least among 9 some clinicians, with respect to OxyContin; correct?</p> <p>10 A. I don't know how much of a concern it was 11 with clinicians per se, but because it was an -- as 12 indicated on its label, gave us an opportunity to show 13 how a product like Opana ER could fit into their 14 practice and maintain the pain relief with a true 15 every-12-hour dosing interval.</p> <p>16 Q. And that was one of the reasons that Endo 17 emphasized true every-12-hour dosing, was understanding 18 that there were clinicians who were seeing OxyContin 19 not have true every-12-hour dosing; correct?</p> <p>20 A. I think they were seeing that with maybe 21 lots of products, too. It's a way to position yourself 22 as a product that's doing what it's supposed to do.</p> <p>23 Q. Okay. If you go to Page E1169.18. Just 24 to orient you again, within the report this is a</p>	<p>1 Indicates under safety/side effects -- for Opana ER it 2 states one of the messages -- main messages recalled 3 was low potential for abuse/diversion; correct?</p> <p>4 A. That's what's written there, but of course 5 we never promoted the product in that way. Our 6 promotional materials don't indicate that in any way, 7 and so that's why the perception of what a clinician 8 says I remember can also be a function of their own 9 empirical evidence, what they see in their practice. 10 It's certainly not representative of the marketing 11 materials and the promotional guidance that we give our 12 sales force.</p> <p>13 Q. I'm just asking, though, that the research 14 report told Endo that one of the main messages 15 clinicians were recalling with respect to Opana ER was 16 low potential for abuse/diversion? That's what the 17 report told Endo?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. What this is telling me is that clinicians 20 in this study -- some believe that that's what they 21 remember, but that doesn't mean that that's what was -- 22 the message that was delivered.</p> <p>23 Q. (By Ms. Scullion) But it does say that 24 that's what they believe and that they remember;</p>
<p style="text-align: center;">Page 179</p> <p>1 section on unaided message recall. What's your 2 understanding of what unaided message recall means?</p> <p>3 A. It's when you ask an open-ended question 4 and don't provide like potential answers or multiple 5 choices where the respondent has to respond with 6 whatever comes to their top of mind.</p> <p>7 Q. Okay. And then if we go to the next two 8 pages, then summarize the main message recall from 9 unaided message recall; correct?</p> <p>10 A. I'm sorry. What were you asking?</p> <p>11 Q. Sure. I'm just looking at these next two 12 pages then, 1169.19 and .20.</p> <p>13 A. Yes.</p> <p>14 Q. These two pages then summarize the main 15 messages that were recalled on an unaided basis; 16 correct?</p> <p>17 A. Yeah. These messages, of course, are what 18 the clinician believes or perceives and provides back. 19 It's their opinion of what they recall.</p> <p>20 Q. Right. This is the intent of doing such a 21 study, is to see what clinicians are recalling; 22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And then if you go to Page 1169.20.</p>	<p style="text-align: center;">Page 181</p> <p>1 correct?</p> <p>2 A. Because it can come from --</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. -- any of their own experiences. If 5 they're using the product in their practice and they 6 see something -- people may not be coming in and asking 7 for it by name -- they may develop a perception on 8 their own that this is -- somehow has these qualities, 9 but it does not reflect the promotional messaging that 10 we put into the marketing.</p> <p>11 Q. (By Ms. Scullion) And then if you go to 12 the next page, E1169.21, in the second message 13 recall --</p> <p>14 MR. LIMBACHER: Jen, I don't mean to 15 interrupt, but we've been going a little over an hour, 16 so whenever you get to a good stopping point.</p> <p>17 MS. SCULLION: I think -- I mean, we're 18 going to need to get through this document, so we 19 should -- won't be too long, but I need to get through 20 it.</p> <p>21 MR. LIMBACHER: Well, we're going to take 22 a break in the next few minutes.</p> <p>23 MS. SCULLION: Let's -- then let's keep 24 going. We'll take a break in the next few minutes.</p>

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<p style="text-align: right;">Page 182</p> <p>1 MR. LIMBACHER: Okay.</p> <p>2 Q. (By Ms. Scullion) So secondary message</p> <p>3 recall -- again, it reports telling Endo that</p> <p>4 clinicians are recalling low potential of</p> <p>5 abuse/diversion for Opana ER; correct?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. Again, same answer. It's a perception</p> <p>8 that they have, and that's what they're reporting in</p> <p>9 the study.</p> <p>10 Q. (By Ms. Scullion) That's -- the reporting</p> <p>11 is telling -- it's telling Endo that physicians have</p> <p>12 this perception of Opana ER; correct?</p> <p>13 MR. LIMBACHER: Object to form. The</p> <p>14 document speaks for itself.</p> <p>15 A. That's what's written here.</p> <p>16 Q. (By Ms. Scullion) And now, it was not a</p> <p>17 correct statement about Opana ER to say it had a low</p> <p>18 abuse profile; correct?</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 A. Opana ER as a Schedule II opioid has the</p> <p>21 same potential for abuse, misuse, and diversion as all</p> <p>22 other Schedule II opioids.</p> <p>23 Q. (By Ms. Scullion) Right. So it's not</p> <p>24 correct to describe Opana ER as having a low abuse</p>	<p style="text-align: right;">Page 184</p> <p>1 MR. LIMBACHER: Objection. Form.</p> <p>2 A. I don't know how to quantify it, but it</p> <p>3 certainly was a significant portion of the promotional</p> <p>4 effort.</p> <p>5 Q. (By Ms. Scullion) Okay. And again, so</p> <p>6 seeing that clinicians are recalling Opana ER as having</p> <p>7 a low abuse profile, did Endo make any affirmative</p> <p>8 effort to go out to clinicians and say we have to</p> <p>9 correct your misunderstanding? To the extent you</p> <p>10 understand we have a low abuse profile, that's wrong?</p> <p>11 Did you make any effort to specifically do that?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. Endo consistently promoted the product</p> <p>14 based on the approved label, and again, with the</p> <p>15 clearance of our promotional review board, our</p> <p>16 materials always represented the safety risks front and</p> <p>17 center on all of our promotional materials. This is a</p> <p>18 sample of doctors who remained blinded to us -- market</p> <p>19 research -- we don't even know who's responding to</p> <p>20 even -- to have that type of targeted effort. What we</p> <p>21 would always do and what we always maintained was the</p> <p>22 highest ethical standard in how we promoted the product</p> <p>23 to our clinicians.</p> <p>24 Q. (By Ms. Scullion) But despite the PMRB</p>
<p style="text-align: right;">Page 183</p> <p>1 profile; right?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. That is correct, but that doesn't mean --</p> <p>4 there are probably multiple messages here that are also</p> <p>5 not correct, such as flexible dosing 12 or 24 hours.</p> <p>6 We never promote them 24 hours either, but somehow the</p> <p>7 clinicians come up with their view and perception that</p> <p>8 is what they respond to, not necessarily in any way</p> <p>9 indicative of how Endo promoted the product.</p> <p>10 Q. (By Ms. Scullion) And at this time of</p> <p>11 this report, though, the primary source of information</p> <p>12 for clinicians about Opana ER was Endo sales reps;</p> <p>13 correct?</p> <p>14 MR. LIMBACHER: Objection. Form and</p> <p>15 foundation.</p> <p>16 A. I would have to go back and -- this is two</p> <p>17 thousand and --</p> <p>18 Q. (By Ms. Scullion) Seven.</p> <p>19 A. Seven? When you say primary, what do</p> <p>20 you -- how do you mean that?</p> <p>21 Q. You had research coming back to you that</p> <p>22 said in this time period that clinicians' primary</p> <p>23 source of information about Opana ER was from sales</p> <p>24 reps?</p>	<p style="text-align: right;">Page 185</p> <p>1 review, et cetera, for promotional materials, you had</p> <p>2 clinicians that you knew believed something wrong about</p> <p>3 Opana ER, and that something was that they believed</p> <p>4 Opana ER had a low abuse profile. Endo knew that that</p> <p>5 belief was out there; right?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. What we know is that somehow they</p> <p>8 determined that on -- based on their experience and how</p> <p>9 they used the product. That's -- a clinician's</p> <p>10 determination is how they viewed the product. We did</p> <p>11 not promote it that way, and we never promoted the fact</p> <p>12 that this was anything other than a Schedule II opioid</p> <p>13 with the same safety risks.</p> <p>14 Q. (By Ms. Scullion) You say you knew that</p> <p>15 clinicians had this belief based on something other</p> <p>16 than promotion. Did you make any effort to go find out</p> <p>17 where this belief was coming from from clinicians, this</p> <p>18 wrong belief about Opana ER?</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 Q. (By Ms. Scullion) Any effort specifically</p> <p>21 out there and investigate how they came to this belief?</p> <p>22 MR. LIMBACHER: Same objection.</p> <p>23 A. I don't recall any specific activity was</p> <p>24 undertaken to find out why they thought this particular</p>

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<p>1 quality existed, although we received, as you saw in 2 the previous e-mail, sometimes spontaneous reports 3 where patients and clinicians would be explaining that 4 they saw these kinds of effects happening.</p> <p>5 Q. (By Ms. Scullion) And in fact, you had 6 market research -- multiple pieces of market research, 7 not just Fastape, but other pieces of market research, 8 that were saying the same thing, that some clinicians 9 wrongly believed that Opana ER had a low abuse profile. 10 You saw that multiple places; correct?</p> <p>11 MR. LIMBACHER: Object to form. Misstates 12 the evidence.</p> <p>13 A. I believe that perception probably came up 14 in other market research.</p> <p>15 Q. (By Ms. Scullion) And did Endo, for 16 example, ever send out a dear-doctor letter that 17 basically said, it's come to our attention some of you 18 have this misimpression; we want to correct it here and 19 now? Did that ever happen?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. That would have happened through a 22 different department. It was not through marketing. 23 So I don't know -- we didn't -- to my knowledge, we did 24 not send out a dear-doctor letter.</p>	<p>1 fix that before we -- does it say 17 at the top? 2 MR. TOLIN: 16. 3 MS. SCULLION: Oh, I just misread. 4 Q. (By Ms. Scullion) Okay. Exhibit 16, 5 which Bates-stamped Endo Opioid MDL 02086096. And Mr. 6 Bingol, this is an e-mail from Laurie Blunt to you and 7 to others dated December 19th, 2007, which is sending 8 along a final report for Opana ATU Wave 3. And again, 9 I'm happy to take you through the report in detail, but 10 if you wanted to quickly review Exhibit 16 and let me 11 know when you're ready.</p> <p>12 [Exhibit Endo-Bingol-016 marked for 13 identification.]</p> <p>14 A. Okay.</p> <p>15 Q. You have a chance to look over Exhibit 16?</p> <p>16 A. Yes.</p> <p>17 Q. Thank you. And Exhibit 16 is a cover 18 e-mail, an executive summary, and a final report from 19 Wave 3 of the ATU for Opana; correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And the ATU, if you go to Page E1248.7, it 22 says Opana ATU Wave 3 final report. ATU is another 23 piece of market research that Endo had performed in 24 connection with Opana ER -- correct -- had engaged in</p>
<p style="text-align: center;">Page 187</p> <p>1 MS. SCULLION: Okay. We can take a break. 2 MR. LIMBACHER: Thank you. 3 THE VIDEOGRAPHER: Off the record at 2:21 4 PM. 5 [A brief recess was taken.] 6 THE VIDEOGRAPHER: We're back on the 7 record at 2:37 PM.</p> <p>8 Q. (By Ms. Scullion) Welcome back, Mr. 9 Bingol. Again, you understand you're still under oath; 10 correct?</p> <p>11 A. Yes. 12 Q. Fantastic.</p> <p>13 MS. SCULLION: Can I have 1248, please?</p> <p>14 Q. (By Ms. Scullion) While we're getting the 15 exhibit, if you could keep your voice up just a little 16 bit.</p> <p>17 A. Sure.</p> <p>18 Q. I'm having a little bit difficulty. I 19 want to make sure I understand you. Thank you. Let me 20 hand you what's marked as Exhibit 17.</p> <p>21 MR. TOLIN: 16; right?</p> <p>22 MS. SCULLION: Oh, I'm so sorry.</p> <p>23 MS. KUBLY: 16.</p> <p>24 MS. SCULLION: 16. You know what, let's</p>	<p style="text-align: center;">Page 189</p> <p>1 an agency to perform?</p> <p>2 A. That is correct. Commissioned it through 3 a third party.</p> <p>4 Q. All right. And it says ATU Wave 3. It 5 came in multiple waves over the course of various 6 portions of the Opana ER promotion; correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. And this is dated December of 2007. 9 You would have read the ATU Wave 3 final report when it 10 was received; correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Let's go to Page 1248.10. Under 13 the first bullet point, in background, it discusses 14 Endo received FDA approval for its extended-release and 15 immediate-release formulations of oxymorphone 16 hydrochloride with the trade name Opana on July 23rd, 17 2006. And then it refers to relaunching oxymorphone 18 hydrochloride injection and there's a trade name 19 Numorphan. Do you recall Numorphan?</p> <p>20 A. Yes.</p> <p>21 Q. What do you understand about the history 22 of Numorphan?</p> <p>23 A. I don't recall much of the historical 24 perspective. It was just another product in our</p>

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<p>1 portfolio that we weren't really focused on at the -- 2 when I first got there, and we were just harmonizing 3 all of the Opana -- or all of the oxymorphone products 4 under one brand name.</p> <p>5 Q. So if I understand, you took the 6 then-existing oxymorphone injection product which had 7 been brand-named Numorphan and rebranded it under 8 Opana; correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Did Endo do the same thing with respect to 11 the rectal suppository form of oxymorphone -- rebrand 12 it from Numorphan to Opana?</p> <p>13 A. I don't recall that product being 14 available when I was there.</p> <p>15 Q. Okay. And if you'll go to Page E1248.15. 16 Just to orient you in the document, this is the section 17 that is executive summary, as it states in the -- on 18 the title page there. And it states on Pages E1248.16 19 to .17 -- it's summarizing the upward path in terms of 20 awareness and usage of Opana ER; correct?</p> <p>21 A. I'm sorry. Where are you exactly?</p> <p>22 Q. Sure. 1248.16.</p> <p>23 A. Right.</p> <p>24 Q. Starts with discussion of the upward path</p>	<p>1 A. Correct.</p> <p>2 Q. (By Ms. Scullion) And that was an 3 important characteristic; correct?</p> <p>4 A. That's correct.</p> <p>5 Q. And then goes on to say that -- and this 6 is for Opana ER -- its unique strengths are low abuse 7 potential, proven Q12 dosing, and multiple formulations 8 available. So again, this is another piece of market 9 research that Endo had that told it that there was a 10 perception of Opana ER as having a unique strength of 11 low abuse potential; correct?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. Again, this is a perception that a doctor 14 may come into their own by virtue of their own clinical 15 practice and nothing that we have ever promoted the 16 product on. Promotional materials -- always very clear 17 on the safety, concerns, and the risks associated with 18 these kinds of products, and that's the way we promoted 19 the product in the marketplace.</p> <p>20 Q. (By Ms. Scullion) Again, I think -- so 21 you testified earlier, though, that Endo did have 22 multiple pieces of market research that did tell it 23 that clinicians did have a perception of Opana ER as 24 having low abuse potential; right?</p>
<p style="text-align: center;">Page 191</p> <p>1 in terms of awareness and usage for Opana; correct?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. Correct.</p> <p>4 Q. (By Ms. Scullion) So it's referring to 5 the fact that in June 2007, about a year, a little less 6 than a year after commercial launch of Opana ER and IR, 7 you're starting to see some moderate increase in 8 awareness and usage for the products; correct? Oh, I 9 misspoke. I apologize. Within 2007, the latter half 10 of 2007, from June 2007 to December 2007, there started 11 to be an increase in awareness and usage of Opana ER 12 and IR; correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And if you go to Page E1248.18, 15 this page summarizes some of the perceptions of Opana; 16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And the very first bullet point states 19 Opana ER continues to be perceived as an effective 20 opioid in terms of potency and duration of action, 21 important characteristics. Duration of action there 22 again refers to the durable efficacy we discussed 23 earlier; is that right?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 193</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. I think I said I'm sure it was likely that 3 there was other market research.</p> <p>4 Q. (By Ms. Scullion) This is one such piece 5 of other market research? Saw the Fastape; right? Now 6 we see the ATU; correct?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. That's correct.</p> <p>9 Q. (By Ms. Scullion) Two different avenues 10 of market research, two different companies, in fact; 11 correct?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. That, I don't know --</p> <p>14 Q. (By Ms. Scullion) Okay.</p> <p>15 A. -- who did which piece of research.</p> <p>16 Q. But two different avenues of market 17 research are telling you the same thing in terms of 18 perception of Opana ER; correct?</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 A. This came up in both studies.</p> <p>21 Q. (By Ms. Scullion) Okay. And this 22 study -- if you'll go to Page E1248.19, very next page. 23 In discussing Opana's unique strengths in having 24 multiple formulations and low abuse potential as key</p>

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<p style="text-align: center;">Page 194</p> <p>1 differentiating factors, study states at the very last 2 bullet point physicians say the primary factor that 3 leads them to anticipate an increase in use of Opana ER 4 over the next six months is low abuse potential; 5 correct?</p> <p>6 MR. LIMBACHER: Object to form. 7 A. That's what's stated. 8 Q. (By Ms. Scullion) And so now Endo had 9 information that told it, not only of a perception that 10 physicians had that Opana ER had low abuse potential, 11 but that that perception was a primary factor that led 12 them to anticipate an increase in use of the product 13 over the near -- next six months; right? 14 MR. LIMBACHER: Object to form. 15 A. This is what's stated here. 16 Q. (By Ms. Scullion) That's what the report 17 told Endo; correct? 18 MR. LIMBACHER: Object to form. 19 A. Yes, that's what's written here. 20 Q. (By Ms. Scullion) And again, it was not 21 true that Opana ER had a low abuse potential; correct? 22 MR. LIMBACHER: Object to form. 23 A. Opana ER is a Schedule II opioid. Same 24 basic black box safety warnings and risks associated</p>	<p style="text-align: center;">Page 196</p> <p>1 about a primary factor leading physicians to anticipate 2 increased use of this Schedule II narcotic -- did Endo 3 undertake affirmatively to go out to physicians with a 4 dear-doctor letter and say we have to correct this 5 mistaken understanding about our product? 6 MR. LIMBACHER: Object to form. Asked and 7 answered. 8 A. A dear-doctor letter would have been a 9 corporate decision on when and how to send that out 10 through a different department. It is not my -- 11 necessarily my purview to do that, so to my knowledge, 12 there was no dear-doctor letter that was sent out. 13 Q. (By Ms. Scullion) I should say, Endo 14 never made the corporate decision to send out that 15 dear-doctor letter, did it? 16 MR. LIMBACHER: Object to form. Asked and 17 answered. 18 A. Not to my knowledge. 19 Q. (By Ms. Scullion) And then you've said a 20 few times that Endo wasn't sure where physicians may 21 have been getting this perception of low abuse 22 potential; right? 23 MR. LIMBACHER: Object to form. Misstates 24 his testimony.</p>
<p style="text-align: center;">Page 195</p> <p>1 with Opana ER as with all other Schedule II opioids. 2 Q. (By Ms. Scullion) Which meant Opana ER 3 did not have a low abuse potential; correct? 4 MR. LIMBACHER: Object to form. Asked and 5 answered. 6 A. Because a Schedule II product has been 7 determined to have a certain level of abuse potential. 8 That's why it's Schedule II. 9 Q. (By Ms. Scullion) Right. And that level 10 of abuse potential is not a low abuse potential? 11 MR. LIMBACHER: Object to form. 12 A. It has an abuse potential. That's the 13 designation. There are different categories. This is 14 the -- Schedule II is a designation by the DEA -- 15 Schedule III, Schedule IV -- and this one is one of the 16 higher scheduled products. 17 Q. (By Ms. Scullion) Endo had no clinical 18 data telling it that Opana ER had a low abuse 19 potential; correct? 20 MR. LIMBACHER: Objection. Form and 21 foundation. 22 A. Not to my knowledge. 23 Q. (By Ms. Scullion) Okay. And again, did 24 Endo having received this report with this information</p>	<p style="text-align: center;">Page 197</p> <p>1 A. No. I think I said that doctors can make 2 their own determination based on their own clinical 3 experience with the product if somebody's not coming 4 in -- if they're not getting a string of patients 5 coming in and asking for it by name, if they're not 6 seeing dose escalations in the prescribing pattern when 7 they're writing the product, they may make their own 8 determination that somehow this has certain qualities 9 that they may call low abuse potential, but Endo never 10 promoted the product to indicate that this was any 11 less -- or any more -- I should say -- any more safe 12 than any other Schedule II product in the market. 13 Q. (By Ms. Scullion) But again, Endo never 14 went out to inquire and find out what was the source of 15 the perception among physicians that Opana ER had a low 16 abuse potential? It never went out to do that 17 research; right? 18 MR. LIMBACHER: Object to form. Asked and 19 answered. 20 A. I don't recall that being a research 21 project. 22 Q. (By Ms. Scullion) Okay. 23 A. We did attempt to study it and understand 24 it through cognition study to see if the effect was</p>

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<p style="text-align: center;">Page 198</p> <p>1 real or not or perceived, but that would be the extent 2 of it.</p> <p>3 Q. Make sure I understand what you're saying. 4 You're saying Endo did a cognition study with respect 5 to Opana ER to see whether it had a less foggy -- I 6 think we talked about -- a less foggy cognition effect 7 on patients; correct?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. Correct. As compared to other long-acting 10 opioids.</p> <p>11 Q. (By Ms. Scullion) Uh-huh.</p> <p>12 A. It was never intended to -- or there 13 was -- it would be ridiculous on its face to assume 14 that this was a low abuse potential product, and no 15 one -- we never promoted the product that way, but if 16 they were seeing differences, CNS effect differences, 17 as reported here, we were trying to understand that.</p> <p>18 Q. You were trying to understand whether the 19 product had different CNS impact, but you never went 20 out to research what it was that was causing in fact 21 physicians to have that perception of Opana ER -- you 22 didn't ask them where are you getting this information? 23 You didn't ask them that, did you?</p> <p>24 MR. LIMBACHER: Object to form. Asked and</p>	<p style="text-align: center;">Page 200</p> <p>1 A. I guess I don't understand the question. 2 Most doctors that you detail will tell you that their 3 rep visits are kind of where they get their 4 information.</p> <p>5 Q. (By Ms. Scullion) It's the main source of 6 information generally; correct?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 Foundation.</p> <p>9 A. It is a source. I guess in this case they 10 said it's their main source of information. Of course, 11 as I pointed out, that main source of information was 12 always provided in a compliant and ethical manner, and 13 based on the materials and the training that those reps 14 received, and we did not promote the product as being 15 less abusable or more safe than another product.</p> <p>16 Q. (By Ms. Scullion) Who was Mr. Larry 17 Romaine when you were with Endo? What was his 18 position?</p> <p>19 A. He was the vice president of sales.</p> <p>20 Q. He had responsibility to oversee Endo 21 sales force?</p> <p>22 A. That's correct.</p> <p>23 Q. And that was the sales force that was, 24 among other things, detailing physicians with respect</p>
<p style="text-align: center;">Page 199</p> <p>1 answered.</p> <p>2 A. I do not recall a formal project in which 3 that was taken -- undertaken.</p> <p>4 Q. (By Ms. Scullion) Okay. And if you go to 5 Page 1248.21. So this market research study not only 6 told Endo that physicians were saying that the primary 7 factor leading them to anticipate an increase in the 8 use of Opana ER was their perception of a low abuse 9 potential for the product, but the same study tells 10 you -- second bullet point on Page 1248.21 -- that 11 physicians continued to rely on sales reps as the main 12 source of Opana information; correct?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. That's what's written.</p> <p>15 Q. (By Ms. Scullion) And Endo -- did Endo 16 ever do any research to indicate that that was a false 17 statement?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. That they rely on reps for their main 20 source of information is a false statement?</p> <p>21 Q. (By Ms. Scullion) Right. Did Endo ever 22 go out to see -- to do research to say, wait, is that 23 correct?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 201</p> <p>1 to Opana ER; correct?</p> <p>2 A. That's correct.</p> <p>3 Q. And you recall, don't you, that in 2008 4 Mr. Romaine issued a memorandum to the sales force 5 specifically calling out that they should not be 6 comparing Opana ER to other long-acting opioids in 7 terms of abuse potential; correct?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. You're asking me if I recall such a memo?</p> <p>10 Q. (By Ms. Scullion) Uh-huh.</p> <p>11 A. Not off the top of my head.</p> <p>12 Q. Do you recall that there was concern that 13 in fact the sales force was actually out there sending 14 out a message that Opana ER had a lower abuse potential 15 compared to other low-acting -- long-acting opioids?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. I don't recall that there was a problem 18 per se with any particular messaging, but if Larry sent 19 out a memo correcting that, then I think that is the 20 right thing that he should have done and to make sure 21 that the sales rep was acting in an ethical manner, but 22 I don't recall that kind of memo.</p> <p>23 Q. (By Ms. Scullion) And again -- and you 24 certainly don't recall any memo going out -- or</p>

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<p>1 dear-doctor letter going out to the clinicians 2 reminding them of the fact that Opana ER did not have a 3 low abuse potential? 4 MR. LIMBACHER: Object to form. Asked and 5 answered multiple times. 6 A. No. As I previously testified. 7 MS. SCULLION: Can we have 1249, please? 8 Thank you. 9 Q. (By Ms. Scullion) I'm handing you what's 10 been marked as Exhibit 17. And Exhibit 17 is 11 Bates-stamped Endo Opioid MDL 02162731. And it begins 12 with a cover e-mail from Larry Romaine to some of his 13 colleagues forwarding on an e-mail, again, from Laurie 14 Blunt to you and others transmitting the Opana ER 15 successful rep research final report and brand IQ 16 summary on December 19th, 2007. Do you see that? 17 [Exhibit Endo-Bingol-017 marked for 18 identification.] 19 MR. LIMBACHER: Take your time and review 20 the document. 21 Q. (By Ms. Scullion) You had a chance to 22 review Exhibit 17? 23 A. Yes. 24 Q. Okay. And Exhibit 17, again, attaches the</p>	<p>1 Q. (By Ms. Scullion) Correct? 2 A. I think Endo ran a couple of these studies 3 for different products, but this one was for Opana ER. 4 Q. And the study report is dated December 5 2007. If you'll go to Page E1249.11, under method. 6 You see it explains that the interviews that form the 7 basis for the study were conducted in November of 2007? 8 A. Yes, I see that. 9 Q. And then it explains that the sample of 10 reps who were interviewed in connection with the study 11 were drawn both from the top -- 30 top tier reps and 12 the 30 low tier reps and they were a mix of both 13 specialty and pharma; correct? 14 A. Yes. 15 Q. If you'll go to Page E1249.33, and this is 16 in the section of the report discussing promotional 17 sales tools. See that the report indicates in the last 18 bullet point that reps are using the TIMERx and 19 delivery system to differentiate Opana ER from the 20 competition by its delivery system, and it's also a 21 good discussion point if the physician is afraid of 22 abuse. You see that? 23 A. Yes. 24 Q. So this report was telling Endo, one, that</p>
<p style="text-align: center;">Page 203</p> <p>1 Opana ER successful rep research final report, 2 beginning at Page E1249.7; correct? 3 A. Correct. 4 Q. And the successful rep study was another 5 piece of research Endo had evaluating its sales and 6 promotion efforts with respect to Opana ER; correct? 7 A. I don't -- it was not about evaluating a 8 sales and promotion effort. This was about 9 characteristics or traits reps would -- I think to 10 discuss what made a rep more successful versus another. 11 Q. But to be clear, if you'll turn to Page 12 1249.9 in the report of the successful rep study. The 13 second bullet point explains Endo would like to conduct 14 a successful rep study to understand the rationale 15 behind keys to successfully selling Opana ER; right? 16 MR. LIMBACHER: Object to form. 17 A. Yes, which could be anything from how they 18 manage their day, to how they make an office call, 19 to -- you know, all the intricacies of detailing a 20 physician beyond just promotional messaging. 21 Q. (By Ms. Scullion) Understood, but it was 22 not just about being a successful rep generally; it was 23 about being a successful rep selling Opana ER? 24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 205</p> <p>1 there were physicians being detailed who were in fact 2 afraid of abuse; correct? 3 MR. LIMBACHER: Object to form. 4 A. That's what it says. 5 Q. (By Ms. Scullion) And it indicates that 6 reps were using the TIMERx delivery system as a good 7 discussion point if a physician in fact had that fear 8 of abuse; right? 9 MR. LIMBACHER: Object to form. 10 A. In this case, that's what is -- what a 11 rep -- or some reps have indicated, which of course 12 would not be in alignment with our promotional 13 practice. 14 Q. (By Ms. Scullion) The TIMERx delivery 15 system had never been proven to be abuse-deterrent; 16 correct? 17 MR. LIMBACHER: Object to form. 18 A. No, not to my knowledge. 19 Q. (By Ms. Scullion) And the TIMERx delivery 20 system did not render Opana ER less susceptible to 21 abuse; correct? 22 MR. LIMBACHER: Object to form. 23 A. Opana ER has the same abuse liability as 24 other Schedule II opioids in the marketplace. There</p>

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<p>1 was no difference in its abuse profile.</p> <p>2 Q. (By Ms. Scullion) So as you indicate,</p> <p>3 discussion of the TIMERx delivery system in response to</p> <p>4 a physician's fear of abuse would not have been an</p> <p>5 appropriate message to be delivered; correct?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. That is correct.</p> <p>8 Q. (By Ms. Scullion) And yet this is what</p> <p>9 Endo is being told -- its reps -- as of November 2007,</p> <p>10 more than a year after launch of this product, that is</p> <p>11 a message being delivered to physicians; right?</p> <p>12 A. No --</p> <p>13 MR. LIMBACHER: Object to form. Misstates</p> <p>14 the evidence.</p> <p>15 A. It says that there may be some reps who</p> <p>16 are responding that way and incorrectly so, and that</p> <p>17 would have to have been somehow dealt with.</p> <p>18 Q. (By Ms. Scullion) And that was -- again,</p> <p>19 some reps were doing that more than a year after this</p> <p>20 product had been launched; correct?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. Based on the timing of this survey, that's</p> <p>23 what that would indicate.</p> <p>24 Q. (By Ms. Scullion) And this survey is</p>	<p>1 does not comport to that.</p> <p>2 Q. (By Ms. Scullion) When you saw this page</p> <p>3 of the successful rep report telling you that reps --</p> <p>4 some reps were citing the TIMERx system in response to</p> <p>5 physicians' fears of abuse, what did you do personally?</p> <p>6 MR. LIMBACHER: Object to form. That's</p> <p>7 not what the document says, counsel. You're mis -- you</p> <p>8 have mischaracterized the document.</p> <p>9 MS. SCULLION: Counsel, I'm -- counsel,</p> <p>10 you are now -- you have now crossed the line into</p> <p>11 coaching this witness on the record.</p> <p>12 MR. LIMBACHER: And you are --</p> <p>13 MS. SCULLION: You will not do that.</p> <p>14 MR. LIMBACHER: -- consciously</p> <p>15 mischaracterizing the document and the language that is</p> <p>16 right in front of you.</p> <p>17 MS. SCULLION: I'm asking the witness the</p> <p>18 question --</p> <p>19 MR. LIMBACHER: I've stated my objection.</p> <p>20 A. Can you ask me again, please?</p> <p>21 Q. (By Ms. Scullion) When you saw this page</p> <p>22 of a successful rep report, E1249.33, in the last</p> <p>23 bullet point on that page, what did you personally do</p> <p>24 in response to that?</p>
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<p>1 analyzing data from interviews in November of 2007, so</p> <p>2 that's after Endo has seen the Fastape report and the</p> <p>3 ATU report telling it that some physicians had a</p> <p>4 perception of the product as having a low abuse</p> <p>5 potential; correct?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. That is the timing of those studies.</p> <p>8 Q. (By Ms. Scullion) Wouldn't this have told</p> <p>9 Endo, this successful rep report in December 2007, that</p> <p>10 it was likely that that perception was coming from the</p> <p>11 fact that at least some reps were improperly</p> <p>12 communicating that the TIMERx delivery system impacted</p> <p>13 the abuse profile of Opana ER?</p> <p>14 MR. LIMBACHER: Object to form. You're</p> <p>15 mischaracterizing the document.</p> <p>16 A. This is based on obviously some reps'</p> <p>17 feedback and an item that should be addressed through</p> <p>18 sales leadership. I can't speak to how it was</p> <p>19 addressed or if it was addressed, but this is not the</p> <p>20 way we promoted the product and not the way we trained</p> <p>21 them to promote the product. So this is going beyond</p> <p>22 what was given to them in terms of their training</p> <p>23 materials and how to effectively and safely promote --</p> <p>24 and in a compliant manner promote the product. This</p>	<p>1 A. I don't recall -- it's been 11 years</p> <p>2 ago -- what actions were taken as a result of any piece</p> <p>3 of market research. I would, however, point out that</p> <p>4 the TIMERx delivery system was the component of</p> <p>5 the product that gave it its true -- what we called</p> <p>6 that durable dosing, the true-12-hour dosing -- because</p> <p>7 that was the long-acting component.</p> <p>8 Whether they're making a leap -- and I</p> <p>9 don't know how -- who makes the comment that it's a</p> <p>10 good discussion point. It's not necessarily written</p> <p>11 here that that's what they were doing, but certainly</p> <p>12 concerning that somebody made that kind of analysis or</p> <p>13 characterization, but certainly using TIMERx to</p> <p>14 differentiate Opana ER based on its dosing interval was</p> <p>15 part of the message.</p> <p>16 Q. (By Ms. Scullion) But it wasn't part of</p> <p>17 the message that it would be a response to a concern</p> <p>18 about abuse; correct?</p> <p>19 A. Never. And that's -- and while it says it</p> <p>20 could be here, it's not saying that that's what they're</p> <p>21 doing either.</p> <p>22 Q. Did you try to find out whether that's</p> <p>23 what they were doing?</p> <p>24 A. Again, that's 11 years ago. I don't</p>

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<p>1 recall what I did in response to really a lot of 2 individual market research findings.</p> <p>3 Q. That would have been a pretty serious 4 concern if reps were out there giving a message about a 5 Schedule II controlled substance having a low abuse 6 profile -- it would have been a concern; right?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. Yes. And typically when we find those 9 kinds of things, we would take the time to either 10 correct the behavior, notify their management, a number 11 of different things we might have done to ensure that 12 the rep is actually staying within the guidelines of 13 what is approved for the product.</p> <p>14 Q. (By Ms. Scullion) But you don't remember 15 actually doing any of that; correct?</p> <p>16 MR. LIMBACHER: Object to form. Asked and 17 answered.</p> <p>18 A. I don't remember what response in this 19 particular market research -- you know, I just don't 20 recall if we did or if we didn't.</p> <p>21 MS. SCULLION: And can I have E1387, 22 please?</p> <p>23 Q. (By Ms. Scullion) Well, in fact, though, 24 what you did was continue to cite the research showing</p>	<p>1 clinicians' experience with the CNS -- CNS -- sorry -- 2 CNS effect of Opana ER; right? That's your assumption?</p> <p>3 MR. LIMBACHER: Objection. Object to 4 form. I think you've misstated his testimony.</p> <p>5 Q. (By Ms. Scullion) If I have, please let 6 me know.</p> <p>7 A. So I'm still not sure I understand exactly 8 what you're asking me about the CNS effect. Could -- 9 one more time, please?</p> <p>10 Q. (By Ms. Scullion) Did Endo ever determine 11 whether physicians' perception of Opana ER as having a 12 low abuse potential was in fact based on the 13 physicians' experiences with the CNS effect of Opana 14 ER?</p> <p>15 MR. LIMBACHER: Objection. Form and 16 foundation.</p> <p>17 A. I don't know if they did or not.</p> <p>18 Q. (By Ms. Scullion) Okay. Let's go to 19 Exhibit 18.</p> <p>20 MR. LIMBACHER: Thank you.</p> <p>21 MS. SCULLION: Yeah.</p> <p>22 [Exhibit Endo-Bingol-018 marked for 23 identification.]</p> <p>24 Q. (By Ms. Scullion) And Exhibit 18 is</p>
<p style="text-align: center;">Page 211</p> <p>1 perceptions of low abuse potential in the brand plants? 2 That's what you did; right?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. That's a different element. That's taking 5 an opportunity, trying to understand if there's an 6 opportunity, and how we can make that reality through 7 cognition study or the other kinds of studies that we 8 could ultimately develop to understand this nuance of 9 CNS differences. And is there a way to improve the 10 product or to articulate the benefits of the product 11 with appropriate research? That's different than 12 telling the sales reps promote on low abuse potential, 13 which we never did.</p> <p>14 Q. (By Ms. Scullion) The perception -- the 15 CNS differences -- did Endo ever find out whether in 16 fact in 2007-2008 the clinicians that its sales reps 17 are calling on had determined that Opana ER had a 18 different CNS effect?</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 Foundation.</p> <p>21 A. I guess I don't understand what you mean 22 by that.</p> <p>23 Q. (By Ms. Scullion) Well, again, you're 24 still assuming that the ATU results are stemming from</p>	<p style="text-align: center;">Page 213</p> <p>1 Bates-stamped Endo CHI_LIT 00024398, and we have 2 stamped in the upper right-hand corner E1387. And Mr. 3 Bingol, you can see on Page 1387.3, which is the title 4 page, that this is the 2009 Opana brand strategic plan 5 listing you on the front page dated December of 2008. 6 Is Exhibit 18 your 2008 Opana brand strategic plan?</p> <p>7 MR. LIMBACHER: Take your time and review 8 the document.</p> <p>9 Q. (By Ms. Scullion) Have you had a chance 10 to review Exhibit 18?</p> <p>11 A. Yes.</p> <p>12 Q. And is it in fact your 2009 brand 13 strategic plan for Opana?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And again, this is dated December 16 of 2008. That would be approximately when you put it 17 together; right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And if you turn to Page E1387.28. 20 This is a slide summarizing the positive clinical 21 profile, challenges within our control. Do you see 22 that? Looking at the title of the slide.</p> <p>23 A. I do.</p> <p>24 Q. And listed here among the advantages of</p>

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<p style="text-align: center;">Page 214</p> <p>1 Opana ER -- if you go down, the sixth bullet point -- 2 one of the advantages of Opana ER listed in the brand 3 strategic plan is low abuse potential; right? 4 A. Correct. 5 Q. And again, the source cited for that is 6 the monthly ATU -- sorry, lower right-hand corner of 7 this slide says source, monthly ATU conducted by RBD, 8 data from Wave 4 April 2008; right? 9 A. That's correct. 10 Q. So the data from April of 2008 is still 11 showing clinicians having a perception of Opana ER as 12 having low abuse potential; right? 13 MR. LIMBACHER: Object to form. 14 A. That is correct. 15 Q. (By Ms. Scullion) So Endo knows that that 16 misunderstanding, misperception, false fact about its 17 product is persistent through this period; correct? 18 MR. LIMBACHER: Object to form. 19 A. It's a finding that continues to occur. 20 Q. (By Ms. Scullion) So it's a false 21 understanding about Opana ER that continues to persist 22 among clinicians until at least April of 2008; right? 23 MR. LIMBACHER: Object to form. 24 A. Again, how the perception is derived and</p>	<p style="text-align: center;">Page 216</p> <p>1 Q. -- in the brand plan -- excuse me -- as 2 an advantage of Opana ER, not just passively, allowing 3 it to persist. You're now citing it as an advantage in 4 the brand strategic plan; correct? 5 MR. LIMBACHER: Object to form and I think 6 you're misstating the document. 7 A. We are reporting what is being cited by 8 customers, not that we are citing it per se. This is 9 what the data show. 10 Q. (By Ms. Scullion) And it's -- you're 11 citing it -- it says the brand strategic plan for Opana 12 for 2009, and this research is being cited in that 13 strategic plan; right? 14 MR. LIMBACHER: Object to form. The 15 document speaks for itself. 16 A. As we cite any other research that we 17 stick into our brand plans. 18 Q. (By Ms. Scullion) Well, you're not citing 19 it and saying this is a perception that we need to 20 correct because Opana ER has in fact the same abuse 21 profile as all other Schedule II opioids? It's not 22 what you're doing in this plan; right? 23 A. What we're doing is continuing to promote 24 the product in an ethical and compliant manner,</p>
<p style="text-align: center;">Page 215</p> <p>1 what it means in a particular -- and how a clinician 2 determined that that's what they feel about the 3 product -- this is letting us know that that's a 4 perception, but you know, it's not a message. It's not 5 the way we promoted the product. And some of the 6 perceptions that they have on the products beyond this 7 are also incorrect, but that's a perception that that 8 was persistent. 9 Q. (By Ms. Scullion) This is a false 10 perception about the product that continues to persist? 11 That's the question. 12 A. I don't know if -- how false or true it is 13 in the sense of if in a doctor's mind nobody's asking 14 for it by name and coming into their office, they may 15 say, oh, this has got less of abuse potential because I 16 don't have, you know, 20 people knocking on my door 17 coming and asking for this product by name. That's the 18 way they characterize what they are seeing in their 19 practice. It is not a perception or not a message that 20 we promoted on, and we didn't create any promotional 21 materials or instruct the sales force to use this as a 22 primary promotional message. 23 Q. (By Ms. Scullion) But you're citing it -- 24 A. Because it's --</p>	<p style="text-align: center;">Page 217</p> <p>1 regardless of what that perception is. 2 Q. Didn't matter what the perception was? 3 Didn't matter if it was a false perception in the 4 market? 5 MR. LIMBACHER: Object to form to the 6 extent that's a question. 7 Q. (By Ms. Scullion) Did it? 8 MR. LIMBACHER: Same objection. 9 A. Again, because that perception is derived 10 by clinicians' experience perhaps and how they defined 11 it and how they saw it within their population. It's 12 not so easy to say we're going to go in and make 13 that -- clarify it. I don't know why they're saying 14 that per se, but that's what they are indicating. 15 Q. (By Ms. Scullion) Well, that's the 16 problem, though, isn't it? You didn't know why this 17 perception was persistent? You didn't know if it was 18 in fact because, as we saw, sales reps were improperly 19 getting a message that, for example, TIMERx affected 20 the abuse profile? Didn't know whether that was in 21 fact the source of that perception; right? 22 MR. LIMBACHER: Object to form on multiple 23 grounds, and you've also misstated the evidence, 24 counsel.</p>

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<p>1 A. So again, I've sort of lost track of your 2 question. Sorry.</p> <p>3 Q. (By Ms. Scullion) You still didn't know 4 where that perception was in fact coming from; right?</p> <p>5 MR. LIMBACHER: Object to form. Asked and 6 answered.</p> <p>7 A. The perception could be multifactorial.</p> <p>8 Q. (By Ms. Scullion) Could be, but still as 9 of December 2008 you still didn't know where it was 10 coming from?</p> <p>11 MR. LIMBACHER: Object to form. Asked and 12 answered.</p> <p>13 A. I don't recall that we did any kind of 14 research to determine the origin of that.</p> <p>15 Q. (By Ms. Scullion) And you didn't know one 16 way or the other whether in fact the perception may be 17 coming from improper messaging coming from sales reps? 18 Just didn't know that at that point; right?</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 A. Again, that perception is probably 21 multifactorial. I have no -- I don't know where it 22 came from. I can tell you again that it was not based 23 on materials or promotional training that we gave our 24 organization.</p>	<p>1 the document.</p> <p>2 Q. (By Ms. Scullion) And Mr. Bingol, just 3 for your reference, I'm only going to be asking you 4 about one aspect of this report, if you'd like to turn 5 to Page E914.108.</p> <p>6 A. 08?</p> <p>7 Q. Yeah. .108.</p> <p>8 MR. LIMBACHER: Yeah --</p> <p>9 A. Oh, Page 108.</p> <p>10 MR. LIMBACHER: -- you can flip through 11 it just to make sure that --</p> <p>12 A. Yeah.</p> <p>13 MR. LIMBACHER: -- you have an 14 understanding of the context of the report.</p> <p>15 Q. (By Ms. Scullion) Are you on Page 16 E914.108?</p> <p>17 A. Yes, but I'm still taking a quick look 18 to --</p> <p>19 Q. Sure.</p> <p>20 A. Okay.</p> <p>21 Q. Okay. And so again, do you recognize the 22 exhibit as a copy of the Opana ATU W6 final report 23 dated December 2008?</p> <p>24 A. I do.</p>
<p style="text-align: center;">Page 219</p> <p>1 Q. (By Ms. Scullion) But you didn't know 2 whether, nonetheless, it was coming from the detailing 3 by sales reps?</p> <p>4 A. I don't know where it came from.</p> <p>5 Q. Correct. Okay.</p> <p>6 MR. LIMBACHER: Object to form. I think 7 he just answered that question. Are we at a good 8 stopping point? We've been going about an hour.</p> <p>9 MS. SCULLION: Yeah, we can stop here.</p> <p>10 MR. LIMBACHER: Thank you.</p> <p>11 THE VIDEOGRAPHER: Off the record at 3:32 12 PM.</p> <p>13 [A brief recess was taken.]</p> <p>14 THE VIDEOGRAPHER: We're back on the 15 record at 3:50 PM.</p> <p>16 Q. (By Ms. Scullion) Back, Mr. Bingol. Hand 17 you what's been marked as Exhibit 19. And Exhibit 19 18 is Bates-stamped Endo CHI_LIT 00547543, and we've 19 marked it as E914. And Mr. Bingol, do you recognize 20 this exhibit as the final report for Opana ATU W6 dated 21 December 2008?</p> <p>22 [Exhibit Endo-Bingol-019 marked for 23 identification.]</p> <p>24 MR. LIMBACHER: Take your time and review</p>	<p style="text-align: center;">Page 221</p> <p>1 Q. Okay. And this is another wave of the 2 same ATU studies we've been looking at earlier; 3 correct?</p> <p>4 A. That's correct.</p> <p>5 Q. All right. And actually, before we get to 6 Page 108, if you'll go to Page 914.6, which discusses 7 the background. And the background section, it states 8 in the last bullet point, in order to provide strategic 9 input to help maximize the market potential and 10 continue tracking changes in the ATU measures, Endo 11 conducted -- just completed a sixth wave, W6, of this 12 study. So that indicates that this is a report on Wave 13 6, that the Wave 6 was just conducted right prior to 14 December of 2008; correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. And then, again, if you'll -- now 17 if you'll turn to Page E914.108. And here again, we 18 see a report of advantages and disadvantages of Opana 19 ER by specialty, and it's -- to W6. That's Wave 6; 20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And in the advantages section, once again, 23 it's listing low abuse potential as an advantage cited 24 by PCPs. Do you see that column?</p>

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<p style="text-align: center;">Page 222</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. Yes.</p> <p>3 Q. (By Ms. Scullion) Let's be clear and make</p> <p>4 sure -- let me do this a little bit better. How's</p> <p>5 that? If you look under the left-hand side under</p> <p>6 advantages, do you see under safety tolerability, fewer</p> <p>7 side effects, the entry for low abuse potential?</p> <p>8 A. Yes.</p> <p>9 Q. And then moving to the right, you see</p> <p>10 under the column for PCPs, there's an entry for 10;</p> <p>11 correct? N equals 10?</p> <p>12 A. Yes.</p> <p>13 Q. And PCP there refers to primary care</p> <p>14 physicians; right?</p> <p>15 A. Yes.</p> <p>16 Q. We also see, moving to the right, next</p> <p>17 column, for non-hospital pain. That would be pain</p> <p>18 specialists outside of the hospital; right?</p> <p>19 A. That's correct.</p> <p>20 Q. We see N equals eight listed for low abuse</p> <p>21 potential; correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Then for the in-hospital pain, we see N</p> <p>24 equals four listed for low abuse potential; correct?</p>	<p style="text-align: center;">Page 224</p> <p>1 Q. (By Ms. Scullion) And again, I'm just</p> <p>2 going to be asking you about one page in Exhibit 20.</p> <p>3 As you're looking through the document, I'm going to be</p> <p>4 focusing on the SWOT analysis, which begins on Page</p> <p>5 nine one -- sorry -- 912.18.</p> <p>6 A. Okay.</p> <p>7 Q. So Exhibit 20 is a copy of your September</p> <p>8 21st, 2006, business plan for 2007 to 2011; correct?</p> <p>9 A. Correct.</p> <p>10 Q. If you look on --</p> <p>11 A. I don't recall this particular version,</p> <p>12 but that's what it says.</p> <p>13 Q. Okay. And if you'll turn to Page E912.20</p> <p>14 within the SWOT analysis, the section labeled</p> <p>15 weaknesses. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And the first weakness listed as of</p> <p>18 September 2006 was perception of oxymorphone as a</p> <p>19 me-too opioid may slow physician adoption of Opana and</p> <p>20 formulary acceptance. Is that accurate that at that</p> <p>21 time that was a weakness for Opana?</p> <p>22 A. As I said, I don't particularly recall</p> <p>23 this version of the document, but that's what was</p> <p>24 written here.</p>
<p style="text-align: center;">Page 223</p> <p>1 A. That's correct.</p> <p>2 Q. And those are indications of the fact that</p> <p>3 certain primary care physicians, non-hospital pain</p> <p>4 specialists, and in-hospital pain specialists were</p> <p>5 reporting a perception of low abuse potential for Opana</p> <p>6 ER as a perceived advantage of the product; correct?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. That's how they responded.</p> <p>9 Q. (By Ms. Scullion) Okay.</p> <p>10 MS. SCULLION: And can I have 912, please?</p> <p>11 Thank you.</p> <p>12 Q. (By Ms. Scullion) Hand you what's been</p> <p>13 marked as Exhibit Number 20.</p> <p>14 [Exhibit Endo-Bingol-020 marked for</p> <p>15 identification.]</p> <p>16 MR. LIMBACHER: Thank you.</p> <p>17 Q. (By Ms. Scullion) And it is Bates-stamped</p> <p>18 Endo CHI_LIT 00545916, and we have stamped it as E912.</p> <p>19 And Mr. Bingol -- make sure I have the same document.</p> <p>20 912? Okay. Thank you. And Exhibit 20. This is the</p> <p>21 2007-2011 business plan for Opana ER dated September</p> <p>22 21st, 2006; correct?</p> <p>23 MR. LIMBACHER: Take your time and look at</p> <p>24 the document.</p>	<p style="text-align: center;">Page 225</p> <p>1 Q. Do you recall that in the fall of 2006</p> <p>2 that was a perceived weakness for Opana?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. Again, I don't recall a lot of specific</p> <p>5 details from 13 years ago, but if that's what's written</p> <p>6 here, then I assume it must have been a concern.</p> <p>7 Q. (By Ms. Scullion) Okay. If you go to the</p> <p>8 next page, E912.21, under opportunities. The third</p> <p>9 bullet point from the bottom refers to JCAHO</p> <p>10 guidelines, refer to pain as the fifth vital sign and</p> <p>11 require appropriate diagnosis and treatment of pain for</p> <p>12 all patients. Do you know what's referred to there by</p> <p>13 the JCAHO guidelines?</p> <p>14 A. I don't recall the acronym.</p> <p>15 Q. Do you recall guidelines referring to pain</p> <p>16 as the fifth vital sign?</p> <p>17 A. Yes. There were -- there was a movement</p> <p>18 to address undertreatment of pain and pain as the fifth</p> <p>19 vital sign was kind of their tag line, if you will, in</p> <p>20 terms of trying to create the awareness of appropriate</p> <p>21 pain management for the appropriate patients.</p> <p>22 Q. And Endo regarded that as an opportunity</p> <p>23 for Opana ER?</p> <p>24 MR. LIMBACHER: Object to form.</p>

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<p>1 A. Yeah, again, I don't know what Endo 2 regarded.</p> <p>3 Q. (By Ms. Scullion) How about you?</p> <p>4 A. Certainly it raised the awareness of 5 needing to treat patients with pain properly, 6 appropriately, and hopefully take patients who are not 7 currently being treated and getting them the relief 8 they need, and that would -- of course, is an 9 opportunity to have a positive effect on the overall 10 pain market, not just Opana ER, but rather the 11 opportunity on a market-wide basis.</p> <p>12 Q. And then the next bullet point discusses 13 leverage Endo's relationship with external parties in 14 order to gain top-of-mind awareness for the Opana brand 15 with societies, KOLs, et cetera. You mentioned earlier 16 in your testimony APF, the American Pain Foundation. 17 Was that an external party that Endo had a relationship 18 with in the fall of 2006?</p> <p>19 A. I don't recall when the relationships were 20 or weren't, but we -- at some point in time we worked 21 with them, with the American Pain Foundation.</p> <p>22 Q. Okay. And was the American Pain 23 Foundation an example of an external party with whom 24 Endo sought to leverage its relationship in order to</p>	<p>1 in connection with the promotion of Opana ER? 2 MR. LIMBACHER: Object to form and 3 foundation.</p> <p>4 A. In terms of promotion, none. This is a 5 professional society with medical clinicians, and we 6 would either partner with them to sponsor an event for 7 them with -- through an unrestricted educational grant 8 or we would perhaps get a post represented there, 9 conduct symposia, those kinds of things for medical 10 education.</p> <p>11 Q. (By Ms. Scullion) Okay. Was the same 12 true with respect to the American Pain Foundation, the 13 APF?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. To my recollection, the American Pain 16 Foundation was more of a consumer organization than a 17 professional society. It wasn't a medical -- it was 18 not a collection of clinicians, but rather a patient 19 advocacy group.</p> <p>20 Q. (By Ms. Scullion) And what connection did 21 the APF have to Endo's promotion of Opana ER, if any?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. I don't recall specific tactics or 24 activities that we conducted with them. I do recall</p>
<p style="text-align: center;">Page 227</p> <p>1 gain top-of-mind awareness with the Opana brand with 2 societies, KOLs, et cetera?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. I guess it could have been categorized 5 that way. I don't know if that was what's being 6 considered because it's not written here as such. I 7 read societies and KOLs as being more around the 8 American College of -- the American Pain Society and 9 like professional societies -- KOLs -- but it could 10 certainly have been considered maybe an external party 11 also.</p> <p>12 Q. (By Ms. Scullion) Well, let me just ask 13 you this then more generally. You did mention the APF. 14 What role did the APF play for you in connection 15 with -- let's start with the promotion of Opana ER.</p> <p>16 A. Yeah. I think originally I said APS, 17 American Pain Society.</p> <p>18 Q. Oh, I'm sorry. I misheard.</p> <p>19 A. So I was kind of getting a little confused 20 to --</p> <p>21 Q. Thank you. So same question.</p> <p>22 A. Versus the American Pain Foundation.</p> <p>23 Q. Let's do the AP -- the American Pain 24 Society. What role did the American Pain Society play</p>	<p style="text-align: center;">Page 229</p> <p>1 that we had engaged with them on a number of occasions, 2 but I don't recall what those specifics were.</p> <p>3 Q. (By Ms. Scullion) Do you recall whether 4 you engaged with APF on the topic of supporting the use 5 of opioids generally, not just with respect to Opana 6 ER?</p> <p>7 A. Again, I don't recall specific topics of 8 engagement with the APF, but Endo often was a proponent 9 of the appropriate use of its medications and 10 appropriate patient selection for those products.</p> <p>11 Q. And that would have been with respect to 12 opioids generally, not just for Opana ER; correct?</p> <p>13 A. In general, we were a proponent of making 14 sure pain patients who were undertreated got the pain 15 management and the pain relief they needed.</p> <p>16 Q. And that would include, for example, 17 supporting the use of opioids when appropriate; 18 correct?</p> <p>19 A. When appropriate with the appropriate 20 patient.</p> <p>21 Q. And that support for the use of opioids 22 when appropriate for the appropriate patient, I think 23 you said -- that would have supported Endo's -- would 24 have supported the use of Opana ER; correct?</p>

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<p style="text-align: center;">Page 230</p> <p>1 MR. LIMBACHER: Object to form. 2 Q. (By Ms. Scullion) Let me ask it this way. 3 A. Yeah. 4 Q. That support -- Endo had multiple opioid 5 products. It had branded, it had Opana ER, and Opana; 6 correct? 7 A. Correct. 8 Q. And it also had Percocet as a branded 9 product, although not actively promoted as of 2006 10 through detailing, et cetera; correct? 11 A. That's correct. 12 Q. And it had Endocet, which was the -- I 13 would call it branded generic; correct? 14 A. Correct. 15 Q. And then over time Endo also had generic 16 opioids through Qualitest (ph) as well; correct? 17 A. I'm not sure exactly what products came 18 with Qualitest, but we had generic opioids. 19 Q. Okay. Okay. And fair to say that Endo's 20 support of the appropriate use of opioids with the 21 appropriate patients would have benefitted all of those 22 opioid products, not just Opana ER, for example? 23 A. And the -- 24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 232</p> <p>1 a series of e-mails that start at the back on Page 2 E1531.2. It's an e-mail -- if you look at the very 3 bottom of the page -- from American Pain Foundation to, 4 it looks like, Annette Eyer at the Cullari Group. 5 Subject matter, treating pain, arming New Yorkers with 6 access. Do you see that? 7 A. I'm sorry, let me -- 8 Q. Sure. 9 A. -- the whole thing. 10 Q. You see the e-mail at the bottom of 11 E1531.2 that is forwarding the -- it's either a flyer 12 or a brochure that's on E1531.3? 13 A. Yes. 14 Q. Okay. And if you look on E1531.3, this is 15 a brochure from the American Pain Foundation, and it's 16 referencing military and veterans pain care. And if 17 you look on the left-hand side, you'll see there's a 18 featured article about exit wounds, a survival guide to 19 pain management for returning veterans and their 20 families. Do you see that? 21 A. Yes. 22 Q. And then the brochure indicates the 23 American Pain Foundation is holding an 24 informational briefing on treating pain, arming New</p>
<p style="text-align: center;">Page 231</p> <p>1 A. And the use of products from other 2 companies or the use of the appropriate medication for 3 the appropriate patient that may not require opioids. 4 We also -- the idea there was to make sure that 5 patients of any kind that weren't being treated 6 properly were hopefully diagnosed correctly and 7 afforded the correct pain medication for their 8 condition. 9 MS. SCULLION: Can I have 1531? 10 Q. (By Ms. Scullion) Hand you what's been 11 marked as Exhibit Number 21, and Exhibit Number 21 is 12 Bates-stamped Endo Opioid MDL 015949.17, and we have 13 marked it as E1531 in the upper right-hand corner. 14 Putting Exhibit 21 to the side for just one moment. Do 15 you recall, Mr. Bingol, that Endo supported programs to 16 educate veterans on pain? 17 [Exhibit Endo-Bingol-021 marked for 18 identification.] 19 A. No, I do not recall that. 20 Q. Do you recall a book called Exit Wounds 21 that discussed the use of -- sorry -- the treatment of 22 pain for veterans? 23 A. I don't recall that book. 24 Q. Okay. If you look at Exhibit 21, there's</p>	<p style="text-align: center;">Page 233</p> <p>1 Yorkers with access, and among the features of 2 that briefing will be a presentation by -- it says 3 Charles Argoff is the first presentation, understanding 4 the clinical challenge of treating low back. Do you 5 see that? 6 A. Yes. 7 Q. And Dr. Argoff -- he was a KOL in 8 connection with Opana ER; correct? 9 A. Yes. 10 Q. Did you ever meet him? 11 A. Yes. 12 Q. Okay. Roughly how many times? 13 A. I would really be guessing. 14 Q. A few times? 15 A. Yes. 16 Q. Okay. And if you keep going down on the 17 flyer, the next-to-last entry says Derek McGinnis, 18 story author of Exit Wounds, a Survival Guide to Pain 19 Management for Returning Veterans and Their Families. 20 Do you see that? 21 A. Yes. 22 Q. Okay. And then so going back to E1531.2. 23 It's going -- now following the e-mail chain. It goes 24 from the American Pain Foundation to Ms. Eyer at</p>

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<p>1 Cullari Group. Was Cullari Group an agency that Endo 2 had engaged?</p> <p>3 A. That name is -- that company is actually 4 very foreign to me. I don't recognize that.</p> <p>5 Q. Okay. But if you go up on Page 1531.2, 6 Ms. Eyer forwards the e-mail on to Greg Thomas, 7 Jennifer Wagner (ph), and someone named M. Gizzi at the 8 Cullari Group. And Mr. Thomas was the senior director 9 of state government affairs for Endo Pharmaceuticals; 10 correct?</p> <p>11 A. I really don't remember, but --</p> <p>12 Q. Well, if you look at the next e-mail up 13 the chain, you see Mr. Thomas's signature block?</p> <p>14 A. Right.</p> <p>15 Q. He identifies himself as senior director, 16 state government affairs; correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. Going back to Ms. Eyer's e-mail to 19 Mr. Thomas, she's asking to confirm if Endo -- if you 20 would like Endo's logo on the invitation, and the 21 invitation being referenced is this invitation on Page 22 E1531.3. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then Mr. Thomas asks you to see</p>	<p>1 but again, I suggested we check with legal to ensure 2 compliance.</p> <p>3 Q. (By Ms. Scullion) Fair to say you didn't 4 think having Endo's name on the American Pain 5 Foundation invitation would be harmful to Endo's 6 promotion of any of its opioid products; correct?</p> <p>7 MR. LIMBACHER: Object to form.</p> <p>8 A. No. It was a common practice to sponsor 9 and support these kinds of third-party initiatives, and 10 having the name on it was not detrimental to Endo.</p> <p>11 Q. (By Ms. Scullion) Okay. You described 12 for us the American Pain Foundation -- I think you said 13 it was a consumer-oriented organization with respect to 14 treatment of pain; correct?</p> <p>15 A. That's probably a misnomer. More a 16 patient advocacy.</p> <p>17 Q. Okay. Fine. A patient advocacy 18 organization. And you have been involved with the APF 19 for a number of years yourself; correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 Q. (By Ms. Scullion) Let me ask you this 22 way. You've been involved with the APF going back to 23 your days at Adolor; correct?</p> <p>24 MR. LIMBACHER: Object to form.</p>
<p style="text-align: center;">Page 235</p> <p>1 her -- see questions below relating to having our logo 2 or a statement related to Endo on the invite. What are 3 your thoughts? Mr. Thomas was coming to you because 4 you were a director of marketing for Opana ER at that 5 point; correct?</p> <p>6 MR. LIMBACHER: Object to form.</p> <p>7 A. I'm not sure of his motivation of why he's 8 coming to me, but he obviously e-mailed me.</p> <p>9 Q. (By Ms. Scullion) Okay. And then if you 10 go to the first page, E1531.1, at the very bottom is 11 your response to Mr. Thomas, and you say I think having 12 our name on this is fine; right?</p> <p>13 A. That was an opinion I had, but also 14 qualified it by we needed to run by legal because I'm 15 not the expert to make that determination.</p> <p>16 Q. But from a marketing promotion 17 perspective, you thought it would be fine to have 18 Endo's name on the American Pain Foundation 19 invitation --</p> <p>20 A. No.</p> <p>21 Q. -- invitation subject to legal review?</p> <p>22 MR. LIMBACHER: Object to form.</p> <p>23 A. No, my -- I thought it was fine based on 24 the regulations and promotional guidelines that we had,</p>	<p style="text-align: center;">Page 237</p> <p>1 A. Again, I don't recall the APF and how 2 often I interacted with him. I know we had a 3 relationship over some period of time. I don't recall 4 it being overly -- I just don't recall the interaction 5 that we had. I -- as I said, I don't even recall this 6 particular initiative.</p> <p>7 MS. SCULLION: Okay. Can I have E1511?</p> <p>8 Q. (By Ms. Scullion) Let me hand you what's 9 been marked as Exhibit Number 22, and Exhibit Number 22 10 is Bates-stamped PPLPC 023000090853. And we have 11 stamped it in the upper right-hand corner E1511. Mr. 12 Bingol, do you recognize Exhibit 22 as an e-mail 13 from -- if you look down about two-thirds of the way 14 down for a page -- from Bonnie Weissfeld, and it's to a 15 number of people, including -- you come in on the -- a 16 third of the way down in the top, on the right-hand 17 side. Do you see Demir Bingol, dbingol@adolor.com? 18 [Exhibit Endo-Bingol-022 marked for 19 identification.]</p> <p>20 A. Yes, I do.</p> <p>21 Q. Okay. And that was your e-mail address 22 at Adolor; correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And it's dated April 2006. You</p>

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<p>1 were employed by Adolor at that time; right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And Ms. Weissfeld, if you look at</p> <p>4 the body of her e-mail on the first page, says, as you</p> <p>5 know, the APF corporate round table will be meeting in</p> <p>6 San Antonio on May 3rd. Attached is the agenda. Did</p> <p>7 you ever attend any APF corporate round table events</p> <p>8 while at Adolor?</p> <p>9 A. No, not that I recall.</p> <p>10 Q. Okay. If you look back up at the e-mail</p> <p>11 addresses, right before your e-mail is the e-mail</p> <p>12 address of Debra Travers, travers.debbie@endo.com. Do</p> <p>13 you know who Ms. Travers was?</p> <p>14 A. Yes.</p> <p>15 Q. Who was she?</p> <p>16 A. You want to know what job she did, or --</p> <p>17 Q. Yes. What was her title?</p> <p>18 A. Well, it changed over time.</p> <p>19 Q. Position. Position.</p> <p>20 A. She was product manager when I came to</p> <p>21 Endo.</p> <p>22 Q. Did she have responsibilities for Opana ER</p> <p>23 when you joined Endo?</p> <p>24 A. Yes.</p>	<p>1 000254752. And we have stamped it E1278. And Mr.</p> <p>2 Bingol, again, this is an e-mail chain. I'm interested</p> <p>3 to ask you about the very first e-mail in the chain on</p> <p>4 Page E1278.2, which is where your name appears. Do you</p> <p>5 see the e-mail from Mary Bennett --</p> <p>6 A. I'm sorry. I just wanted to --</p> <p>7 Q. Sure.</p> <p>8 A. -- orient myself. Okay.</p> <p>9 Q. So going to Page E1278.2, the e-mail at</p> <p>10 the bottom of the page from Mary Bennett at</p> <p>11 painfoundation.org, and it's directed to yourself,</p> <p>12 Linda Kitlinski, David Kerr, and others at Endo.</p> <p>13 Subject Endo/APF meeting. And in the e-mail Ms.</p> <p>14 Bennett discusses a meeting that took place the prior</p> <p>15 week in Chadds Ford. Did you attend a meeting in</p> <p>16 Chadds Ford between Endo and the APF in early June or</p> <p>17 late May of 2006?</p> <p>18 A. I don't recall such a meeting, but it's</p> <p>19 possible.</p> <p>20 Q. Do you recall attending any APF meetings</p> <p>21 while you were employed with Endo?</p> <p>22 A. Nothing -- no specific meeting.</p> <p>23 Q. Do you recall any general interactions</p> <p>24 with APF while you were at Endo?</p>
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<p>1 Q. Okay. Did you have any interactions with</p> <p>2 Ms. Travers before you joined Endo?</p> <p>3 A. No.</p> <p>4 Q. All right. And to the best of your</p> <p>5 knowledge, you did not go to this APF corporate round</p> <p>6 table meeting in San Antonio?</p> <p>7 MR. LIMBACHER: Objection. Asked and</p> <p>8 answered.</p> <p>9 A. No.</p> <p>10 Q. (By Ms. Scullion) Okay.</p> <p>11 MS. SCULLION: Could I have 1278?</p> <p>12 Q. (By Ms. Scullion) What do you recall</p> <p>13 Adolor's relationship was with the APF while you were</p> <p>14 employed by them?</p> <p>15 A. Honestly, until you brought it up here, I</p> <p>16 never even considered -- I couldn't remember that we</p> <p>17 had a relationship with the APF. I don't have any</p> <p>18 recollection of that.</p> <p>19 Q. Okay. I'm going to hand you what's been</p> <p>20 marked as Exhibit Number 23.</p> <p>21 [Exhibit Endo-Bingol-023 marked for</p> <p>22 identification.]</p> <p>23 A. Thank you.</p> <p>24 Q. And Exhibit 23 is Bates-stamped CHI</p>	<p>1 A. I think perhaps -- I remember Will Rowe,</p> <p>2 who was heading it up, just because I can see his</p> <p>3 face in my head. I know I must have interacted with</p> <p>4 him a couple of times, but I don't remember specific</p> <p>5 sessions or meetings like this.</p> <p>6 Q. Okay. And if you go into Ms. Bennett's</p> <p>7 note, she says in the first paragraph -- she says,</p> <p>8 pleasure meeting you, thank you for taking the time to</p> <p>9 share information about Endo, providing us</p> <p>10 an opportunity to share our accomplishments.</p> <p>11 In her last sentence, she says, in</p> <p>12 addition, we appreciate the rich discussion regarding</p> <p>13 our quote -- "mission match" -- closed quote -- the</p> <p>14 challenges we all face to improve pain management, and</p> <p>15 potential ways we might work together. Understanding</p> <p>16 you don't recall the specific meeting, do you recall</p> <p>17 that Endo did share -- had a shared mission with the</p> <p>18 APF with respect to improving pain management and</p> <p>19 potential ways that Endo and the APF might work</p> <p>20 together?</p> <p>21 MR. LIMBACHER: Object to form. I think</p> <p>22 you misstated his testimony.</p> <p>23 Q. (By Ms. Scullion) I'm sorry. Did I</p> <p>24 misstate your testimony? I thought you said you did</p>

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<p>1 not recall a specific meeting.</p> <p>2 MR. LIMBACHER: I think he testified he</p> <p>3 doesn't recall attending this meeting.</p> <p>4 Q. (By Ms. Scullion) Okay. Understanding</p> <p>5 that you don't recall attending this meeting, do you</p> <p>6 recall in general, though, that Endo and the APF did</p> <p>7 have a shared mission with respect to the challenges</p> <p>8 faced in improving pain management and potential ways</p> <p>9 to work together?</p> <p>10 MR. LIMBACHER: Object to form.</p> <p>11 A. I don't recall how the missions were</p> <p>12 perfectly aligned or not. Certainly both organizations</p> <p>13 have an interest in seeing the betterment of pain</p> <p>14 management.</p> <p>15 This is a relationship that's typically</p> <p>16 managed through somebody like Linda Kitlinski and</p> <p>17 through her team, so it's not something I would be</p> <p>18 necessarily intimately involved in, which is probably</p> <p>19 why I don't remember all of the interactions. I was</p> <p>20 not necessarily part of that -- those interactions on a</p> <p>21 regular basis if I was -- you know, to the extent that</p> <p>22 I was.</p> <p>23 Q. (By Ms. Scullion) But based on what you</p> <p>24 just said, you would agree with Ms. Bennett's</p>	<p>1 engaged with the APF?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. (By Ms. Scullion) Do you recall -- do you</p> <p>5 know whether Grunenthal had involvement with the APF?</p> <p>6 A. Perhaps. Perhaps.</p> <p>7 Q. Do you recall making an introduction of</p> <p>8 Grunenthal to Burt Rosen at Purdue in connection with</p> <p>9 the APF?</p> <p>10 A. I mean, I know who Burt Rosen is. I don't</p> <p>11 recall specifically that interaction.</p> <p>12 Q. See if we can refresh your recollection</p> <p>13 here. Let me show you what's been marked as Exhibit</p> <p>14 Number 24, and Exhibit Number 24 is Bates-stamped PPLPC</p> <p>15 012000432942, and we have stamped it E1514 in the top</p> <p>16 right-hand corner. Directing your attention to the</p> <p>17 e-mail at the bottom of 1514 from Burt Rosen to James</p> <p>18 Dolan, Philip Strassburger, John Stewart (ph), Allen</p> <p>19 Must (ph). Subject matter Grunenthal intelligence.</p> <p>20 And this is dated July 2013. Again, you said you know</p> <p>21 Mr. Rosen; correct?</p> <p>22 A. Yes. Met him a couple of times.</p> <p>23 Q. And he was an executive at Purdue?</p> <p>24 A. I don't know his title, but a Purdue</p>
<p style="text-align: center;">Page 243</p> <p>1 characterization in her closing sentence that there was</p> <p>2 a common goal to improve pain management between Endo</p> <p>3 and APF; correct?</p> <p>4 A. I can say that it was Endo's goal to make</p> <p>5 sure that pain management was improving around the</p> <p>6 country, and I assume it was a match for their mission</p> <p>7 statement as well. I can't speak to that.</p> <p>8 Q. Based on your interactions with the APF</p> <p>9 while at Endo, do you recall generally that was a</p> <p>10 common goal of the two organizations?</p> <p>11 MR. LIMBACHER: Objection. Form and</p> <p>12 foundation.</p> <p>13 A. Again, unfortunately, I don't really</p> <p>14 recall all the specifics around what we were doing with</p> <p>15 the APF and how it related to their mission or --</p> <p>16 mostly because I was tangentially involved in the</p> <p>17 management part of it. This was really done by a</p> <p>18 different department.</p> <p>19 Q. (By Ms. Scullion) After leaving Endo, you</p> <p>20 worked for a period of time at -- is it Welldoc (ph)?</p> <p>21 A. Correct.</p> <p>22 Q. And then you joined Grunenthal; correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And at Grunenthal did you again become</p>	<p style="text-align: center;">Page 245</p> <p>1 employee.</p> <p>2 Q. Do you recall what his area of</p> <p>3 responsibility was, to your understanding?</p> <p>4 A. Government affairs.</p> <p>5 Q. Okay. How did you know Mr. Rosen?</p> <p>6 A. I don't recall how the introduction was</p> <p>7 made. I think -- well, perhaps through our government</p> <p>8 affairs contractor, we had somebody helping us with our</p> <p>9 participation in government affairs that knew Mr. Rosen</p> <p>10 and made a connection that way.</p> <p>11 Q. When you say our, you mean Grunenthal's --</p> <p>12 Grunenthal had contracted in someone to help it with</p> <p>13 government affairs issues?</p> <p>14 A. Correct.</p> <p>15 Q. Who was that? Was it Dan Cohen (ph)?</p> <p>16 A. Yes. Thank you.</p> <p>17 Q. Okay. And so Mr. Rosen, from what you</p> <p>18 know of him, you wouldn't expect him to misrepresent or</p> <p>19 misreport on a meeting he had had with you; right?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. I have no reason to suspect that he would.</p> <p>22 Q. (By Ms. Scullion) Okay. And in his</p> <p>23 e-mail, Mr. Rosen says, just FYI, I just had a fun</p> <p>24 meeting with Dr. Alexander Kraus, VP product</p>

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<p style="text-align: center;">Page 246</p> <p>1 development and technical affairs, and A. Demir Bingol, 2 VP business expansion. Seeing this, do you recall 3 having a meeting with Mr. Rosen attended also by Dr. 4 Alexander Kraus in July of 2013?</p> <p>5 A. I don't recall the specific meeting.</p> <p>6 Q. Okay. And as it says, Dr. Kraus -- he was 7 VP product development and technical affairs for 8 Grunenthal at that time?</p> <p>9 A. That is correct.</p> <p>10 Q. And Mr. Rosen says in terms of the 11 meeting, they, meaning you and Mr. Kraus, were mostly 12 interested in the pain care forum and how they could 13 contribute to the overall public policy debate on ADF. 14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Did Grunenthal in July of 2013 have an 17 interest in working with the pain care forum?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 Q. (By Ms. Scullion) What was the pain care 20 forum?</p> <p>21 A. I'm not sure I can describe it. Just -- 22 it was a -- I don't recall their mission or how they 23 were formed, but it was, I guess, a group of 24 like-minded organizations working to improve pain</p>	<p style="text-align: center;">Page 248</p> <p>1 A. The interest being that we have ADF 2 technology and obviously wanted to participate in 3 trying to ensure that -- trying to understand more than 4 ensure where the debate was going, what is happening 5 with the acceptance of ADF technologies.</p> <p>6 It was a growing and evolving construct, 7 seemingly always changing and a moving target and being 8 involved in part of that to understand exactly how that 9 market was going to evolve and where we're going to fit 10 and how we're going to play in it.</p> <p>11 Q. And did you understand that Purdue also 12 had an interest in the ADF public policy debate at that 13 time?</p> <p>14 MR. LIMBACHER: Object to form and 15 foundation.</p> <p>16 A. I understood that most manufacturers of 17 long-acting opioids -- in fact, other kinds of products 18 as well -- the ADF debate or as it's written here, you 19 know -- is broader than just long-acting opioids -- 20 we're interested to some extent.</p> <p>21 Q. (By Ms. Scullion) But that would -- so 22 the debate would include, though, as you said, most 23 manufacturers of long-acting opioids at that point, 24 including Purdue; correct?</p>
<p style="text-align: center;">Page 247</p> <p>1 management.</p> <p>2 Q. Was Purdue one of those organizations?</p> <p>3 A. I don't recall the organizations or the 4 list of membership or how that was formed.</p> <p>5 Q. Was Grunenthal looking to be part of the 6 pain care forum?</p> <p>7 A. There was some interest there. Mostly 8 Alexander's responsibility. He was also our government 9 affairs lead. I was -- my role there -- I'm not 10 even -- I don't even recall the meeting, so I can't 11 really provide more detail than that.</p> <p>12 Q. And when Mr. Rosen references an interest 13 by yourself and Dr. Kraus and how they could contribute 14 to the overall public policy debate on ADF. Was 15 Grunenthal looking to contribute to the public policy 16 debate at that time on ADF abuse deterrents, 17 formulations?</p> <p>18 MR. LIMBACHER: Object to form.</p> <p>19 A. Yes.</p> <p>20 Q. (By Ms. Scullion) Why was Grunenthal 21 interested in contributing to that debate?</p> <p>22 MR. LIMBACHER: Object to form. And I 23 would caution the witness not to disclose any 24 proprietary information.</p>	<p style="text-align: center;">Page 249</p> <p>1 MR. LIMBACHER: Object to form.</p> <p>2 A. I don't -- I can't characterize or speak 3 for Purdue and what they wanted to do and I don't know 4 who -- to what level of interest any one company had.</p> <p>5 Q. (By Ms. Scullion) Did you understand that 6 Endo had an interest in the public policies 7 concerning ADF at that time?</p> <p>8 MR. LIMBACHER: Object to form. I'd point 9 out he did not work at Endo at that time.</p> <p>10 Q. (By Ms. Scullion) If you had any 11 knowledge of that.</p> <p>12 MR. LIMBACHER: Foundation.</p> <p>13 A. I don't recall specifically what Endo 14 wanted to do with public policy at that time. I just 15 don't have a recollection.</p> <p>16 MS. SCULLION: Okay. We're going to take 17 a quick break. I apologize. I need to take a phone 18 call.</p> <p>19 THE VIDEOGRAPHER: Off the record at 4:39 20 PM.</p> <p>21 [A brief recess was taken.]</p> <p>22 THE VIDEOGRAPHER: We're back on the 23 record at 4:50 PM.</p> <p>24 Q. (By Ms. Scullion) Let me hand you what's</p>

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<p>1 been marked as Exhibit 25, and Exhibit 25 is 2 Bates-stamped PPLP 004270602, and we've marked it E1515 3 in the top right-hand corner. And Mr. Bingol, you'll 4 see in the middle of Page E1515 is an e-mail from Dr. 5 Alexander Kraus to Burt Rosen dated July 19th, 2013. 6 You are CC'ed and the subject is follow-up.</p> <p>7 And this appears to be, again, an e-mail 8 from Dr. Kraus now to Mr. Rosen in reference to the 9 meeting referenced in Exhibit 24. And the question is 10 just, in looking at Exhibit 25, does that refresh your 11 recollection at all further about that meeting?</p> <p>12 [Exhibit Endo-Bingol-024 marked for 13 identification.]</p> <p>14 [Exhibit Endo-Bingol-025 marked for 15 identification.]</p> <p>16 MR. LIMBACHER: Take your time and review 17 the document.</p> <p>18 A. Just -- not beyond the fact that I know we 19 met with him.</p> <p>20 Q. (By Ms. Scullion) And does it at all 21 refresh your recollection about what was discussed 22 during the meeting?</p> <p>23 MR. LIMBACHER: Object to form. Asked and 24 answered.</p>	<p>1 bottom right-hand corner that ends in 1676708. You'll 2 see on that page an e-mail from Mr. Rowe. And it is 3 dated January 13th, 2009, discussing the PCF REMS task 4 force. Do you see that?</p> <p>5 [Exhibit Endo-Bingol-026 marked for 6 identification.]</p> <p>7 A. Yes, I do.</p> <p>8 Q. Okay. Do you -- see if you recognize any 9 of the names in the to line there. The first line 10 there, it says Aaron Gilson, PhD (ph). Do you know Dr. 11 Gilson?</p> <p>12 A. I don't recall any Dr. Gilson.</p> <p>13 Q. You don't recall him from the pain policy 14 group, for example?</p> <p>15 A. I don't know who he is.</p> <p>16 Q. Do you know -- have you heard of the pain 17 policy group?</p> <p>18 A. No.</p> <p>19 Q. Doesn't ring a bell? Okay.</p> <p>20 A. No.</p> <p>21 Q. I think we discussed on the second line 22 Brian Munroe. He was with Endo; correct?</p> <p>23 A. Correct.</p> <p>24 Q. And that was Endo's government affairs;</p>
<p style="text-align: center;">Page 251</p> <p>1 A. Not specifically. I mean, I don't recall 2 the meeting other than the general fact that we had a 3 meeting with him.</p> <p>4 Q. (By Ms. Scullion) Okay.</p> <p>5 A. I believe in his office, as I recall.</p> <p>6 Q. Okay. Did Grunenthal reach out to any 7 other opioid manufacturers in this time frame, July 8 2013, to discuss potential involvement with the pain 9 care forum?</p> <p>10 A. I don't really know. Again, that was more 11 Alexander's role to do those things, so I don't know 12 who he contacted.</p> <p>13 Q. Okay. You mentioned earlier Mr. Will 14 Rowe. Do you recall that he was a CEO of the American 15 Pain Foundation?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And Endo was involved with the pain 18 care forum through the American Pain Foundation; 19 correct?</p> <p>20 A. I don't recall if we were participating or 21 not.</p> <p>22 Q. Let's show you Exhibit Number 26. And 23 Exhibit Number 26 is Bates-stamped EPI 001676707. And 24 I just want to draw your attention to page at the</p>	<p style="text-align: center;">Page 253</p> <p>1 correct?</p> <p>2 A. That's correct.</p> <p>3 Q. And Burt Rosen was with Purdue, government 4 affairs; right?</p> <p>5 A. I don't know where Rosen was working at 6 that time. I hadn't met him yet.</p> <p>7 Q. Fair enough. You -- did you eventually 8 know Mr. Rosen, though, through the pain care forum?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. No. My meeting with him was just -- as I 11 said, I remember a meeting with him in his office with 12 our -- with Alexander. It was not directly through the 13 pain care forum.</p> <p>14 Q. (By Ms. Scullion) But do you know why you 15 reached out to Mr. Rosen with respect to the meeting 16 concerning the pain care forum?</p> <p>17 MR. LIMBACHER: Object to form.</p> <p>18 A. I don't recall what facilitated the 19 discussion.</p> <p>20 Q. (By Ms. Scullion) Okay. And if you go 21 on -- my apologies. I lost my -- there we go. The 22 fourth line down the to's, you'll see a reference to 23 June Doll (ph). Do you see her name?</p> <p>24 A. Sorry.</p>

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<p style="text-align: right;">Page 254</p> <p>1 Q. That's okay. Bad counting by me. Fifth 2 line down. June Doll. 3 A. Yes. Got it. Thank you. 4 Q. June Doll -- is she a KOL? 5 A. I recall her being some sort of expert, 6 but I don't recall in what field or what her area of 7 expertise was. 8 Q. You have any recollection about how you 9 came to know her name? 10 A. I don't over the time of working at Endo, 11 but certainly the name Doll sticks out. I mean, I 12 recognize the name. 13 Q. Okay. In the next line you see a 14 reference to Lisa Robin (ph)? 15 A. I see that. 16 Q. Do you have a recollection of who Lisa 17 Robin was? 18 A. I don't have any idea who she is. 19 Q. Did you ever have any dealings with the 20 federation of state medical boards? 21 A. No, I didn't. 22 Q. If you go to the next line, you see Mary 23 Bennett a little bit to the left-hand side? 24 A. Yes.</p>	<p style="text-align: right;">Page 256</p> <p>1 (ph)? 2 A. Yes. 3 Q. Do you recall who Ms. Bennett was? 4 A. No. 5 Q. Do you recall that she was affiliated with 6 Purdue? 7 A. No. 8 Q. Okay. And next line to the right you see 9 Scott Fishman? 10 A. Yes. 11 Q. Dr. Fishman was a KOL; correct? 12 A. Yes. 13 Q. Okay. The subject matter of Mr. Rowe's 14 e-mail is PCF REMS task force. Did Endo coordinate 15 with the PCF on a REMS task force in 2009? 16 A. I don't know the answer to that. 17 Q. Do you recall Endo coordinating with any 18 other manufacturers to respond to the FDA's 19 announcement that a class-wide REMS would be mandatory 20 for extended-release long-acting opioids? 21 A. I recall that Endo, like other 22 manufacturers, were curious to know what the new REMS 23 would be and how they would be formed, and that was 24 really not -- more of a medical affairs and</p>
<p style="text-align: right;">Page 255</p> <p>1 Q. Does that name ring a bell? 2 A. No, I don't recall a Mary Bennett. 3 Q. Do you recall her in connection with the 4 APF or the PCF? 5 A. I don't recall it, but -- I don't know 6 what connection she would have. 7 Q. Okay. And at the very end of that line, 8 you see Mickey Brown (ph). Again, is that a name you 9 recognize? 10 A. No. 11 Q. Anyone you recognize in connection with 12 the APF or the PCF, for example? 13 A. I'm sorry. Are you asking me if Mickey 14 Brown is connected? 15 Q. Yes. Do you recognize that name in 16 connection with the APF or the PCF? 17 A. I don't recognize that name. 18 Q. Okay. Next line, Meyer Christopher (ph). 19 Oh, two -- yeah, next line. 20 A. Uh-huh. 21 Q. Meyer Christopher on the left-hand side. 22 Do you recognize that name as a KOL? 23 A. I don't know this name. 24 Q. Okay. Same line. You see Pamela Bennett</p>	<p style="text-align: right;">Page 257</p> <p>1 regulatory-driven process, so I'm not sure with whom 2 they routinely discussed things with, if there was a -- 3 if this was a vehicle for that or not. I wasn't 4 necessarily -- was not my area to manage. 5 Q. Okay. But you were concerned, were you 6 not, that Purdue was trying to gain a marketing 7 advantage in connection with the class-wide REMS? 8 MR. LIMBACHER: Object to form. 9 A. I don't recall that type of concern. 10 Q. (By Ms. Scullion) Okay. Let me hand you 11 what's been marked as Exhibit Number 27. And Exhibit 12 Number 27 is Bates-stamped EPI 001794412. And Mr. 13 Bingol, do you see there Exhibit 27 begins at the 14 bottom with, again, that same e-mail from Mr. Rowe? 15 And now Mr. Monroe -- Mr. Monroe -- has forwarded that 16 e-mail to you and to Mr. Barto at the top of Exhibit 17 27. Do you see that? 18 [Exhibit Endo-Bingol-027 marked for 19 identification.] 20 A. Yes, I do. 21 Q. And Mr. Monroe has annotated the subject 22 line PCF REMS task force, I need your input ASAP. Do 23 you recall Mr. Monroe seeking your input in connection 24 with the PCF REMS task force in December of</p>

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<p style="text-align: right;">Page 258</p> <p>1 2008?</p> <p>2 A. I don't specifically recall it, but it's</p> <p>3 entirely possible.</p> <p>4 Q. Okay. And in the second line of his</p> <p>5 e-mail, Mr. Munroe's e-mail to you and Mr. Barto, he</p> <p>6 states, Demir -- sorry -- Demir -- I apologize --</p> <p>7 Demir, your concerns of Purdue trying to gain marketing</p> <p>8 advantages are still out there and I don't think we</p> <p>9 will know where this is going to go before having to</p> <p>10 decide whether or not to sign on to this letter. Does</p> <p>11 that refresh your recollection about any discussion you</p> <p>12 might have had with Mr. Munroe about the PCF REMS task</p> <p>13 force?</p> <p>14 A. Not particularly. Clearly we had</p> <p>15 discussions around -- cross functionally around what a</p> <p>16 REMS document might mean and how it will impact maybe</p> <p>17 potentially other parties. I don't recall the specific</p> <p>18 concern that was obviously raised here at that time.</p> <p>19 Q. (By Ms. Scullion) Okay.</p> <p>20 MS. SCULLION: Can we take a quick break?</p> <p>21 THE VIDEOGRAPHER: Off the record at 5:04</p> <p>22 PM.</p> <p>23 [A brief recess was taken.]</p> <p>24 THE VIDEOGRAPHER: We're back on the</p>	<p style="text-align: right;">Page 260</p> <p>1 Q. And the question is, did you get weekly</p> <p>2 reports on sales within the Midwest region when you</p> <p>3 were regional business director?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And those were -- if you look at</p> <p>6 the bottom of the page -- broken down by district, so</p> <p>7 you could see the district at the bottom of the page,</p> <p>8 Pittsburgh, Columbus, Detroit, Indianapolis, Chicago,</p> <p>9 Annapolis, et cetera?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And in your e-mail, you're writing</p> <p>12 to team, and that's your district managers; correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And you're going to talk about</p> <p>15 some -- quote -- "pretty cool stuff" -- closed quote --</p> <p>16 that's happening this week; right?</p> <p>17 A. That's what I wrote.</p> <p>18 Q. And the first thing you note as some</p> <p>19 pretty cool stuff was you say we are trading paint with</p> <p>20 the southeast on Opana ER and I can tell you that Tim</p> <p>21 Cochran (ph) -- oh, yes, now it's personal -- continues</p> <p>22 to chide me about taking the Number One spot from us.</p> <p>23 When you say trading paint, that was a reference to the</p> <p>24 Midwest region and the southeast region were going back</p>
<p style="text-align: right;">Page 259</p> <p>1 record at 5:17 PM.</p> <p>2 Q. (By Ms. Scullion) Mr. Bingol, I want to</p> <p>3 take you back to your work as the regional business</p> <p>4 director for the Midwest region. If you recall, that</p> <p>5 was September 2009 to September 2010. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Let me show you what's been marked</p> <p>8 Exhibit -- as Exhibit Number 28.</p> <p>9 [Exhibit Endo-Bingol-028 marked for</p> <p>10 identification.]</p> <p>11 MR. LIMBACHER: Thank you.</p> <p>12 MS. SCULLION: Yeah.</p> <p>13 Q. (By Ms. Scullion) And that is</p> <p>14 Bates-stamped Endo Opioid MDL 00982037. And Mr.</p> <p>15 Bingol, you see it's an e-mail from you to the</p> <p>16 specialty district managers, Midwest, as well as Mr.</p> <p>17 Albers and Ms. Butterfield, dated February 24th, 2010.</p> <p>18 And the subject is Midwest weekly summary. Did you as</p> <p>19 regional business director have weekly summaries of</p> <p>20 sales within the Midwest region?</p> <p>21 A. I'm sorry. I'm reading this first, if you</p> <p>22 don't mind.</p> <p>23 Q. Sure. Go ahead.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 261</p> <p>1 and forth on a weekly basis as to who was in the Number</p> <p>2 One spot -- is that right -- on Opana ER?</p> <p>3 A. Yes. Generally speaking, sales teams are</p> <p>4 relatively competitive with one another.</p> <p>5 Q. And that's intentionally so? They are</p> <p>6 competitive in order to spur everyone on to try to</p> <p>7 maximize sales; correct?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. That's not -- they're not intentionally</p> <p>10 competitive with each other, but they tend to be.</p> <p>11 Somebody wants to beat out the other guy.</p> <p>12 Q. (By Ms. Scullion) Meaning you're keeping</p> <p>13 track on a weekly basis as to which region was Number</p> <p>14 One with regard to Opana ER; correct?</p> <p>15 A. We do that with respect to all of our</p> <p>16 products.</p> <p>17 Q. Including Opana ER?</p> <p>18 A. Correct.</p> <p>19 Q. All right. And every week the regions</p> <p>20 were competing to see who would be Number One on Opana</p> <p>21 ER?</p> <p>22 A. No, it wasn't quite that formal. Just --</p> <p>23 Tim happened to be a friend of mine, and so we happened</p> <p>24 to have that kind of relationship. It wasn't that we</p>

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<p style="text-align: center;">Page 262</p> <p>1 were definitely competing against him or anybody on a 2 weekly basis, but always looking to reach our sales 3 objectives.</p> <p>4 Q. And exceed those sales objectives; right?</p> <p>5 MR. LIMBACHER: Object to form.</p> <p>6 A. Sure.</p> <p>7 Q. (By Ms. Scullion) Okay. And I think we 8 spoke earlier -- the question was whether the Midwest 9 region included Pittsburgh. I think you said you 10 thought so, but you weren't sure. Looking at Exhibit 11 28, does this refresh your recollection that 12 Pittsburgh, which is listed as one of the districts 13 under the Midwest region, was in fact part of the 14 Midwest region?</p> <p>15 A. Correct.</p> <p>16 Q. (By Ms. Scullion) Okay.</p> <p>17 MS. SCULLION: And can we have Exhibit 18 13 -- thank you --</p> <p>19 Q. (By Ms. Scullion) Let me hand you what's 20 been marked as Exhibit Number 29. And Exhibit 29 is 21 Bates-stamped Endo Opioid MDL 00961320, and it's 22 stamped in the upper right-hand corner E1354. And 23 starting with the bottom e-mail, which is from you 24 again to the specialty DMs, Midwest -- and this is</p>	<p style="text-align: center;">Page 264</p> <p>1 approved through the PMRB of Endo; correct?</p> <p>2 A. That is correct.</p> <p>3 Q. All right. And you explain in your e-mail 4 to your team, you'll be happy to know that we, Midwest 5 Magic -- that's the Midwest region; right -- have the 6 second highest allocation of programs in the country 7 based on Midwest Magic's ability to drive Opana ER 8 business. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. What did that mean, Midwest Magic's 11 ability to drive Opana ER business?</p> <p>12 A. I don't recall the context of that. 13 Usually these programs are allocated based on, again, 14 the same kind of prescribing potential, where the 15 business is and who's writing the prescriptions and 16 where of the long-acting opioid market, and where do we 17 want to compete, but specifically as it relates to 18 ability to drive the business -- I don't know if it 19 refers to that or what it might else refer to, but 20 certainly reference to potential.</p> <p>21 Q. So if I understand you correctly, speaker 22 programs are being allocated to areas where at the time 23 Endo perceived they would have the most potential to 24 engage target-rich clinicians? That was the term you</p>
<p style="text-align: center;">Page 263</p> <p>1 dated February 17th, 2010. And the subject matter now 2 is Opana speaker program allocations. Do you see that?</p> <p>3 [Exhibit Endo-Bingol-029 marked for 4 identification.]</p> <p>5 A. Yes.</p> <p>6 Q. We spoke earlier about the Opana ER 7 speaker programs. I just want to make sure -- the 8 reference here to speaker programs is a reference to 9 dinners at which Endo would invite KOLs to come and 10 speak in this case about Opana ER to clinicians in the 11 territory where the program is taking place; correct?</p> <p>12 A. Yes. These are programs that are always 13 managed and approved from our headquarters and making 14 sure that the content and the KOL selection is always 15 done in a compliant manner, and all of the materials 16 considered promotional went through PMRB and always 17 presented the product with all its full safety and 18 efficacy messages.</p> <p>19 Q. Right. As we spoke earlier, so these 20 speakers are chosen by Endo; correct?</p> <p>21 A. That is correct.</p> <p>22 Q. Paid by Endo?</p> <p>23 A. That is correct.</p> <p>24 Q. And the speaker slides are reviewed and</p>	<p style="text-align: center;">Page 265</p> <p>1 had used earlier.</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. As with all of our promotional resources, 4 we would undergo a certain level of analytics, so you 5 would fish where the fish are, and if a doctor is 6 prescribing a long-acting opioid, you would want to 7 have a resource allocated there versus somewhere where 8 there was no activity.</p> <p>9 After all, we wanted to, again, acquire 10 share, not necessarily develop new prescribers for 11 long-action opioids in that. So these --I don't recall 12 the exact analytics that went into how these particular 13 programs were allocated, but generally speaking there's 14 a potential overlay here to understand that you would 15 invest a little more here, a little less there. 16 Everybody across the country got speaker programs. 17 It's just a question of how you might concentrate 18 those.</p> <p>19 Q. So fair to say at this point in time, 20 February of 2010, based on the Midwest region's 21 performance to date on generating prescriptions for 22 Opana ER, it was given the second highest allocation of 23 programs -- speaker programs in the country; correct?</p> <p>24 A. Again, I don't recall the analytics that</p>

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<p style="text-align: center;">Page 266</p> <p>1 drove the decision to allocate them, but they got the 2 second highest allocation. I don't know -- I don't 3 recall what the parameters were that actually drove the 4 analysis.</p> <p>5 Q. Did the -- had the Midwest region shown an 6 ability to drive Opana ER business as of February 2010?</p> <p>7 A. I don't recall the weekly or the monthly 8 data to know that -- as of what point in time their 9 growth trends were going in which direction.</p> <p>10 Q. But fair to say in your e-mail as of 11 February 2010, you are saying that the allocation was 12 based on that region's ability to drive Opana ER 13 business -- what you wrote; right?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. That's what I wrote.</p> <p>16 Q. (By Ms. Scullion) Okay.</p> <p>17 A. As I said, I don't recall what the 18 calculus was that quantifies their ability to drive 19 business, if it was based on script trends or if it was 20 based on just where the potential lied within the 21 region. There could be a number of other smaller 22 factors, so I can't speak to exactly what the analysis 23 was.</p> <p>24 Q. (By Ms. Scullion) Well, if you go up</p>	<p style="text-align: center;">Page 268</p> <p>1 Q. And do you agree that as of February 2010 2 Endo could drive business with speaker programs?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. Yes. The purpose of a speaker program was 5 to educate clinicians on the appropriate use of the 6 product along with all its inherent safety risks, and 7 of course we invested in those kinds of educational 8 programs in the hope that clinicians would include it 9 in their choice set for the appropriate patient.</p> <p>10 Q. (By Ms. Scullion) Yeah. And then in 11 the -- as Mr. Kellens has indicated -- a measurable 12 return on investment for the speaker programs; correct?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. That's what he wrote.</p> <p>15 Q. (By Ms. Scullion) Okay. Did you see a 16 measurable return on investment for the speaker 17 programs for Opana ER?</p> <p>18 A. I don't recall specific analysis, but you 19 can see in weekly data switching that occurs, whether a 20 clinician has started writing less of one competitor 21 and more of yours through IMS data, so it's not 22 difficult to see prescribing patterns changing. You 23 don't always know why and you don't always know which 24 promotional tactic works, so it's very difficult</p>
<p style="text-align: center;">Page 267</p> <p>1 above to the e-mail from William Kellens, and it's 2 to -- there's an e-mail address. It looks like maybe 3 it's a list. ZZ330500. Is that a territory list?</p> <p>4 A. Yeah, that's his --</p> <p>5 Q. Or a district list, rather?</p> <p>6 A. That's his district moniker. He's got a 7 distribution list based on that.</p> <p>8 Q. Okay. Make sure I understand. At the 9 time William Kellens was a district manager within the 10 Midwest region; correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And his district he referred to as the 13 Thunderbolts. It's in his introduction to his e-mail; 14 correct?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. And Mr. Kellens says, Thunderbolts, 17 we have another opportunity to shine early and shine 18 often. And he says, as we have seen from Wade and 19 Laura executing strong Opana ER speaker programs with 20 measurable return on investment as well as Eddie and 21 Bethany and their recent successes -- success with 22 fence-sitting Oxycodone SR prescribers, we can drive 23 business with speaker programs. Do you see that?</p> <p>24 A. I do.</p>	<p style="text-align: center;">Page 269</p> <p>1 sometimes to actually make a direct one-to-one 2 correlation.</p> <p>3 Q. But over time did you tend to see a 4 correlation between speaker programs and, as you 5 said -- I think you said switching of patients from one 6 long-acting opioid to hopefully Opana ER; correct?</p> <p>7 A. Again, over time you saw a trend increase. 8 Whether it was wholly responsible or due to speaker 9 programs or rep details -- very difficult to tease out 10 what one promotional element might -- the impact one 11 might have versus another.</p> <p>12 Q. But there was an overall impact of the 13 combination of all the promotional elements; correct?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. That's what you invest in, and that's what 16 you hope to achieve.</p> <p>17 Q. (By Ms. Scullion) I mean, certainly Endo 18 did not stop doing speaker programs in connection with 19 Opana ER between 2006 when they had started and 2010 -- 20 they continued to use those speaker programs; correct?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. I'm not sure -- I can't remember when they 23 started. I don't think they started in 2006. If they 24 did, maybe late. Maybe in 2007. But certainly from</p>

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<p>1 that period in time to what I can recall -- when I -- 2 by the time I left, they were still doing it. 3 Q. (By Ms. Scullion) Okay. Okay. 4 MS. SCULLION: And can I have 1357? Thank 5 you. 6 Q. (By Ms. Scullion) I hand you what's been 7 marked as Exhibit Number 30, and Exhibit 30 is 8 Bates-stamped Endo Opioid MDL 06009589, and we stamped 9 it E1357 in the upper right-hand corner. And let me 10 draw your attention -- if you look at the very bottom 11 of the first page, you'll see there's a beginning of an 12 e-mail again from William Kellens to his district 13 Thunderbolts, and that carries over on to Page 1357.2. 14 Do you see that? 15 [Exhibit Endo-Bingol-030 marked for 16 identification.] 17 A. I need to read this, if you don't mind, 18 from the beginning. 19 Q. Sure. 20 A. Okay. 21 Q. Okay. Looking, again, at the bottom of 22 the first page of Exhibit 30. It's the very beginning 23 of Mr. Kellens's e-mail that carries over to the next 24 page. And it's -- the subject matter is Opana ER</p>	<p>1 story had not been using Opana ER; correct? 2 A. I wouldn't say that. I would say they 3 probably were using -- I don't know what they were 4 using, quite honestly. I don't know what level of 5 prescription they were driving at this point. 6 Q. Okay. Well, if you go to the first page 7 of Exhibit 30 -- and this is your follow on e-mail to 8 the specialty reps in the Midwest. And you're 9 addressing it to the two reps, Bethany and Eddie; 10 correct? 11 A. That's correct. 12 Q. And you're congratulating them. And in 13 your second paragraph -- let me start with the first 14 paragraph. In your first paragraph, in the last 15 sentence, you say, although the results do speak for 16 themselves, I am excited to point out your efforts have 17 led to 134 percent increase of Opana ER total 18 prescriptions for these two -- it says HCP -- health 19 care providers -- combined. And you say that's 20 awesome. Right? 21 A. Yes, that's what I wrote. 22 Q. Okay. So -- and then you go on to 23 congratulate the reps in your second paragraph on the 24 fact that they didn't give up on these two clinicians,</p>
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<p>1 success story, and he is, again, writing to his 2 district Thunderbolts; correct? 3 A. That's correct. 4 Q. And he is sharing what he calls a 5 fantastic success story, and it's in reference to Eddie 6 and Bethany used a very important tool in their 7 toolbox. Eddie and Bethany were two sales reps in that 8 territory; correct? 9 A. Yes. I don't remember them specifically, 10 but they were obviously Bill's reps. 11 Q. Okay. And the fantastic success story 12 he's congratulating them on is using speaker programs 13 to drive sales with two high-potential late adopters; 14 correct? 15 A. That's what he wrote. 16 Q. And I think you also discussed that -- the 17 phrase late adopters earlier today. What did you 18 understand late adopters to mean? 19 A. Somebody who for one reason or another 20 hadn't tried the product or used it very much compared 21 to others who may have used it more quickly -- adopted 22 it more readily in their practice. 23 Q. And so with respect to this e-mail, these 24 are clinicians who prior to this fantastic success</p>	<p>1 and you're congratulating them for their persistence as 2 the true hallmark of a success. Correct? 3 A. That's correct. 4 Q. And what you describe as a success is two 5 sentences later -- it would have been very easy for you 6 to think Dr. Variakojis hasn't written Opana ER by now, 7 so she probably won't write it at all. That's what you 8 wrote; right? 9 A. That was my characterization. 10 Q. And so your characterization was that this 11 was a clinician who hadn't yet written any Opana ER, 12 and then did so as a result of the persistent promotion 13 by these two reps; correct? 14 MR. LIMBACHER: Object to form. 15 A. Yeah, I don't remember or really know 16 Dr. -- I don't know how you pronounce it, Variako -- 17 Dr. V -- to know exactly how much or how little they 18 were prescribing. I was characterizing what I would 19 have thought the reps were thinking to themselves, and 20 it doesn't remove the fact that this doctor was 21 probably also writing a lot of other long-acting 22 opioids. 23 So the fact of the matter, we were simply 24 trying to see how do we get a share of their business</p>

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<p style="text-align: center;">Page 274</p> <p>1 with Opana ER, and this particular rep was persistent 2 in trying to get trial and usage in this practice, and 3 I congratulated her for that.</p> <p>4 Q. (By Ms. Scullion) Right. And the 5 congratulations is they're persistent, they're going 6 back, they're not giving up, they're continuing to 7 detail the doctor; correct?</p> <p>8 MR. LIMBACHER: Object to form. The 9 document speaks for itself.</p> <p>10 A. Correct. That's their job.</p> <p>11 Q. (By Ms. Scullion) And -- correct. And in 12 doing their job, they succeeded in, as you say, leading 13 both themselves and Dr. V to a completely different 14 conclusion about Opana ER; correct?</p> <p>15 A. That's what I wrote.</p> <p>16 Q. And that was the job of a sales rep to do 17 that?</p> <p>18 A. The job is to --</p> <p>19 MR. LIMBACHER: Object to form.</p> <p>20 A. The job is to encourage trial and usage 21 within their population to see where the product might 22 serve a clinically meaningful role within their pain 23 patients. And for whatever reason a clinician may -- 24 maybe just through inertia, always used to writing</p>	<p style="text-align: center;">Page 276</p> <p>1 role, any business, when you're selling something to be 2 able to overcome certain objections and to be 3 persistent.</p> <p>4 Q. (By Ms. Scullion) In -- take a step back. 5 Sales reps were compensated in part through incentive 6 compensation plans; correct?</p> <p>7 MR. LIMBACHER: Object to form and 8 foundation.</p> <p>9 A. That is correct.</p> <p>10 Q. (By Ms. Scullion) Okay. And you became 11 familiar with the incentive compensation system in part 12 in your role as a regional business director for the 13 Midwest region; correct?</p> <p>14 A. That's correct. I became familiar with it 15 at that time, but it's been many years.</p> <p>16 Q. Understood. Big picture, though, the 17 incentive compensation plans were rewarded compensation 18 based on whether a sales rep met a certain percentage 19 of their sales goal against a call plan for any given 20 period; correct?</p> <p>21 MR. LIMBACHER: Object to form and 22 foundation.</p> <p>23 A. I don't recall the specific mechanisms of 24 what triggered the incentive compensation, but it was a</p>
<p style="text-align: center;">Page 275</p> <p>1 morphine, never really taking the time to think about 2 it. This was an opportunity perhaps to get a trial -- 3 Opana ER trial in this practice, and they finally seem 4 to have succeeded.</p> <p>5 Q. (By Ms. Scullion) You didn't congratulate 6 them on inertia. You congratulated these sales reps on 7 their efforts and their persistence; correct?</p> <p>8 MR. LIMBACHER: Object to form. Asked and 9 answered.</p> <p>10 A. The inertia would be with the prescriber 11 who doesn't -- who doesn't try something different 12 because they just have always done something a 13 particular way, so that's the inertia I was referring 14 to. Certainly the sales reps were persistent and able 15 to get the trial of the product in that practice when 16 the doctor was able to use it and obviously started to 17 prescribe more of it.</p> <p>18 Q. (By Ms. Scullion) You were holding up 19 that example of persistence as something you thought 20 other sales reps in your region should also strive for?</p> <p>21 MR. LIMBACHER: Object to form.</p> <p>22 A. I would say that any sales rep in any 23 industry who stops after being told no would be an 24 unemployed sales rep. It is the nature of any sales</p>	<p style="text-align: center;">Page 277</p> <p>1 component. There was a performance component. I don't 2 recall how it was structured.</p> <p>3 Q. (By Ms. Scullion) Do you recall that 4 incentive compensation was an important part of the 5 compensation for sales reps, for example, in the 6 region, the Midwest region, when you were the regional 7 business director?</p> <p>8 MR. LIMBACHER: Object to form.</p> <p>9 A. The incentive compensation plan is 10 important to all the sales reps in the company, and in 11 every company by which when you have a portion of your 12 overall compensation as a performance-based metric, it 13 becomes obviously very important.</p> <p>14 Q. (By Ms. Scullion) And as regional 15 business director, did you also become familiar with 16 systems that Endo had to remove physicians from a sales 17 rep's call plan?</p> <p>18 A. Yes. There was some process by which that 19 could be managed. Again, the specifics I don't really 20 recall, but if there was -- if for whatever reason a 21 physician needed to be removed from the call plan, then 22 that -- there was a trigger, and that could be removed, 23 and then I'm not sure -- I can't remember the specifics 24 of how it would relate to their incentive comp, but I</p>

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<p style="text-align: center;">Page 278</p> <p>1 think it also reduced some obligation in terms of their 2 annual prescription expectations or goal. 3 Q. So for example, could a physician be 4 removed from a sales rep's call plan based on a 5 conclusion that the physician was diverting Opana ER? 6 A. I don't remember the specific criteria, 7 but Endo certainly took any notification or signals 8 very seriously with regard to how clinical practices 9 were operating. Let's put it that way. And I know 10 that periodically there could be a reason for reviewing 11 a particular physician and removing them from the call 12 plan based on any number of criteria, but I assume 13 diversion is probably one of those. 14 Q. Do you recall that there was a process by 15 which the compliance department would investigate 16 reports of diversion, suspected diversion, to determine 17 whether to remove the physician from a call plan? 18 A. I know there's -- again, that there was a 19 process. I don't know specifically what the -- I don't 20 recall all the steps or how it was enacted, but yes, 21 there was clearly a process for that. 22 Q. But you don't have an understanding of how 23 removal of a physician from the call plan for diversion 24 would impact a sales rep's incentive compensation?</p>	<p style="text-align: center;">Page 280</p> <p>1 THE VIDEOGRAPHER: We're back on the 2 record at 5:50 PM. 3 QUESTIONS BY MR. GASTEL: 4 Q. Good evening, Mr. Bingol. My name is Ben 5 Gastel. I represent a group of plaintiffs in the State 6 of Tennessee. 7 MR. GASTEL: And I'll begin with our usual 8 objection that we object to the deposition going 9 forward today for the reasons that we've previously 10 laid out and in our motion to quash. 11 Q. (By Mr. Gastel) Subject to that 12 objection, Mr. Bingol, I'm going to have a handful of 13 questions for you here. And as I stated, I represent a 14 different group of plaintiffs than the attorney who was 15 asking you questions most of the day. All of my 16 clients are in the State of Tennessee, so I'll begin 17 with a question of whether or not in your work with 18 Endo you ever traveled to the State of Tennessee. 19 A. I don't recall a trip to Tennessee. 20 Q. We saw throughout today various business 21 plans and marketing plans for Opana. Those business 22 plan and marketing plans apply for Endo sales of Opana 23 throughout the country; is that safe to say? 24 A. I'm sorry. I'm not sure if I understand</p>
<p style="text-align: center;">Page 279</p> <p>1 MR. LIMBACHER: Object to form and 2 foundation. 3 A. Again, I don't remember the specifics of 4 how -- what the mechanics were of removing the doctor 5 and what happened with their data and how that impacted 6 the sales rep and their data. I know there was some 7 interaction there, but I don't recall the specifics. 8 MS. SCULLION: Okay. Mr. Bingol, that's 9 all the questions that we have for you today. We -- I 10 think we noted earlier that -- I've asked for you to 11 search for additional documents in response to our 12 subpoena. They should have been produced. So we're 13 going to reserve our rights to potentially recall you 14 for further testimony after receiving those documents. 15 We also have the issue with respect to the 16 instruction not to testify with respect to Grunenthal, 17 so we're reserving our rights on those as well. And on 18 a more housekeeping note, Exhibit Number 3 was 19 intentionally -- that exhibit number was skipped, for 20 the record, so it's not missing, it just was not used 21 today. Thank you. 22 THE VIDEOGRAPHER: Off the record at 5:48 23 PM. 24 [Discussion off the record.]</p>	<p style="text-align: center;">Page 281</p> <p>1 the question. 2 Q. Sure. I don't want to rehash what has 3 been gone over today. You obviously looked at numerous 4 exhibits today about business plans and marketing plans 5 for Opana. You remember those questions? 6 A. Yes. 7 Q. And my question is is that was a plan that 8 was in place to market and sell Opana throughout the 9 country; correct? 10 A. Yes. 11 Q. And those plans would have also applied to 12 Endo's efforts to sell Opana in the State of Tennessee; 13 right? 14 A. Yes. 15 Q. Do you have any idea of or understanding 16 of opioid prescription rates in the State of Tennessee? 17 A. I don't have a particular recollection of 18 opioid prescription rates from 15 years ago in any one 19 state. 20 Q. Have you ever looked at any information 21 published by the Tennessee Department of Health on 22 Tennessee's opioid crisis? 23 A. Ever? 24 Q. Ever.</p>

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<p style="text-align: center;">Page 282</p> <p>1 A. Not to my knowledge. Not that I recall. 2 Q. Are you aware that as of 2013 the 3 Tennessee Department of Health estimated that there 4 were 221,000 adults in Tennessee using prescription 5 pain relievers for non-medical purposes? 6 MR. LIMBACHER: Objection to form and 7 foundation. 8 A. No, I'm not aware of that, but in 2013, 9 having left Endo, I was not necessarily as attuned to 10 some of those concerns. 11 Q. (By Mr. Gastel) And are you aware that 12 the Department of Justice has found that prescription 13 opioids rank as the Number One abused drug among 14 individuals receiving state-funded services in the 15 State of Tennessee? 16 MR. LIMBACHER: Objection. Form and 17 foundation. 18 A. I'm not aware of that. 19 Q. (By Mr. Gastel) Would it surprise you if 20 that were true? 21 MR. LIMBACHER: Same objection. 22 A. I wouldn't know what to -- how to react to 23 that. 24 Q. (By Mr. Gastel) During your time with</p>	<p style="text-align: center;">Page 284</p> <p>1 Q. And do you recall specifically what those 2 clinical trials were about? 3 A. Vaguely, but again, that's probably under 4 my Grunenthal proprietary information. 5 MR. LIMBACHER: Well, if it implicates 6 what you believe to be Grunenthal proprietary 7 information, then I would direct you not to answer the 8 question for the same reasons as discussed previously. 9 MR. GASTEL: And obviously we're going to 10 take the same issue that the MDL plaintiffs took with 11 that position. I won't rehash all of that here, but we 12 will reserve the right to recall the witness 13 and explore that. 14 Q. (By Mr. Gastel) Do you recall during your 15 time with Endo that Tennessee was the top state for 16 prescribing of Opana in the entire country? 17 A. I don't recall necessarily the prescribing 18 patterns. 19 MR. GASTEL: I'm actually going to go out 20 of order. I'm going to go with Document 7. 21 MR. BROWN: 7? 22 MR. GASTEL: Yeah. 23 Q. (By Mr. Gastel) I'm going to hand you a 24 document that's been marked as Exhibit 32.</p>
<p style="text-align: center;">Page 283</p> <p>1 Endo, do you recall any discussions concerning the 2 Tennessee effect as it relates to the use of Opana in 3 the State of Tennessee? 4 A. I've not heard that term before. 5 Q. After you left Endo, do you recall 6 discussions with anybody at any time concerning the 7 Tennessee effect as it relates to the use of Opana in 8 the State of Tennessee? 9 A. Again, I don't recall hearing that term, 10 the Tennessee effect. 11 Q. Did you have any conversations with Tara 12 Chapman concerning any of the documents that she filed 13 with the FDA shortly after you left Endo? 14 MR. LIMBACHER: Objection to form and 15 foundation. 16 A. I don't recall having those discussions, 17 although I may have had meetings with Endo briefly when 18 I first started at Grunenthal. 19 Q. (By Mr. Gastel) And what would those 20 meetings have concerned? 21 A. Mostly their clinical study and what they 22 were doing with trying to understand how the new 23 product was -- studying the properties of the new 24 crush-resistant product.</p>	<p style="text-align: center;">Page 285</p> <p>1 [Exhibit Endo-Bingol-032 marked for 2 identification.] 3 MR. LIMBACHER: Thank you. 4 Q. (By Mr. Gastel) And you'll see that this 5 is an e-mail that you sent in May of 2010 to a variety 6 of individuals at Endo. Do you see that? 7 MR. LIMBACHER: Take your time and review 8 the document. 9 MR. GASTEL: And I'm sorry. For the 10 record, the Bates number for this document is EPI 11 002386765. 12 A. Okay. 13 Q. (By Mr. Gastel) Do you recall sending 14 this e-mail, sir? 15 A. No, I don't recall sending it. 16 Q. Do you see that on the cover e-mail there 17 is an attachment that's labeled as 2011 oxymorphone 18 strategic summary 05-14-10. Did I read that correctly? 19 A. Yes. 20 Q. And then in the body of the e-mail, it 21 states please read data deck. This is to level set 22 everyone with current dynamics with a focus on managed 23 care. There will be few additional slides to review 24 with you live on Wednesday based on late-breaking</p>

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<p style="text-align: center;">Page 286</p> <p>1 research, but we wanted to get you most of the 2 information for your preread. Did I read that 3 correctly?</p> <p>4 A. Yes.</p> <p>5 Q. So I assume that that's you directing the 6 people who receive this e-mail to go through this 7 PowerPoint presentation prior to the meeting that's 8 contemplated in this e-mail. Is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And you thought that that was important 11 for the strategic placement of Opana for the coming 12 year of 2011; is that right?</p> <p>13 MR. LIMBACHER: Object to form.</p> <p>14 A. The -- to preread this before they get to 15 the meeting?</p> <p>16 Q. (By Mr. Gastel) And -- well, the slide 17 deck -- you wanted them to review the slide deck 18 because you thought that it was important for the 19 strategic meeting for Opana in 2011; right?</p> <p>20 A. Yes. This would have been information 21 that we wanted to share cross-functionally to give 22 everybody a basic framework from which to contribute to 23 the strategic plan.</p> <p>24 Q. Sure. And I don't want to go through the</p>	<p style="text-align: center;">Page 288</p> <p>1 Q. Does that signal to you that the source of 2 the information in this slide comes from IMS data?</p> <p>3 A. That's correct.</p> <p>4 Q. Would you just describe what IMS data is 5 for the jury, please?</p> <p>6 A. IMS was -- I guess they changed their name 7 to IQVIA, but they're a data reporting company that 8 work with pharmacies and maybe other commercial 9 entities -- I'm not quite sure -- to report their 10 prescriptions and how they're filling them.</p> <p>11 IMS would collect this data across all 12 product categories, of course, and then report that 13 back to -- offer for purchase back to pharmaceutical 14 companies or other constituents who may have interest 15 in understanding what's going on on a 16 prescription-level basis for any one product or 17 category.</p> <p>18 Q. Sure. And if I'm understanding your 19 testimony correctly, IMS basically collects 20 prescription data and is able to determine what 21 companies are selling what products in what markets; is 22 that fair to say?</p> <p>23 MR. LIMBACHER: Object to form.</p> <p>24 A. I'm not sure what granularity they get in</p>
<p style="text-align: center;">Page 287</p> <p>1 entire slide deck, but will you turn to Page 25 of the 2 slide deck, please? And it's the slide that carries 3 the title 10 states driving approximately half of Opana 4 ER business. Did I read that correctly, sir?</p> <p>5 A. Yes.</p> <p>6 Q. And then the first bullet point there says 7 top 10 states represent 56 percent of Opana ER 8 prescription volume. Did I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. And then the first state listed there is 11 the State of Tennessee; is that right?</p> <p>12 A. That is correct.</p> <p>13 Q. And it's showing that there was 13,652 -- 14 I assume that that's prescriptions. Is that right?</p> <p>15 A. That's correct.</p> <p>16 Q. Do you know what time period that would 17 have covered?</p> <p>18 A. That's what I was looking at. I was 19 trying to see. I don't know what that was covering 20 time-wise.</p> <p>21 Q. Do you see in the bottom left-hand corner 22 there is a reference to the source, IMS Xponent. Did I 23 read that correctly?</p> <p>24 A. Correct.</p>	<p style="text-align: center;">Page 289</p> <p>1 terms of knowing what companies are doing what, but 2 they can tell you typically which products are being 3 dispensed and which physicians are prescribing them.</p> <p>4 Q. (By Mr. Gastel) And in what locations 5 those prescriptions are being filled; right?</p> <p>6 A. Yes, there is -- to my understanding, that 7 there is some sort of algorithm in that process, so 8 it's not necessarily always 100 percent accurate, but 9 sometimes more directional than not.</p> <p>10 Q. But you relied on IMS data to develop a 11 lot of your marketing business plans for Opana; right?</p> <p>12 MR. LIMBACHER: Object to form.</p> <p>13 A. IMS data was considered, I guess, the gold 14 standard in terms of understanding prescription trends. 15 They're -- one other company did the same kind of 16 thing, Welters Core (ph), but between the two IMS was 17 generally considered the gold standard.</p> <p>18 Q. (By Mr. Gastel) After -- and I assume 19 that you put this slide together?</p> <p>20 A. I don't recall who put this slide 21 together.</p> <p>22 Q. Regardless, when you saw the data from IMS 23 that's reflected in this PowerPoint presentation that 24 you put together in May of 2010, did it bother you at</p>

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<p style="text-align: center;">Page 290</p> <p>1 all that the State of Tennessee was seeing more Opana 2 prescriptions than large states like New York, 3 Pennsylvania, Florida, or California? 4 MR. LIMBACHER: Object to form. 5 A. I don't recall how I internalized the data 6 when I saw it. 7 Q. (By Mr. Gastel) Did you ever conduct any 8 investigation about what legitimate medical need was 9 present in Tennessee that drove Opana prescription 10 rates in the State of Tennessee to levels above larger 11 states like New York, Pennsylvania, Florida, 12 California, or Texas? 13 MR. LIMBACHER: Object to form. 14 A. I don't recall any such analysis per se. 15 Q. (By Mr. Gastel) Did you ever conduct any 16 investigation whatsoever about why Tennessee was 17 receiving more Opana prescriptions than states of 18 comparative size? 19 A. I don't recall, again, conducting that 20 type of analysis. Endo had a number of systems -- 21 databases, signal detection, surveillance type of 22 programs through its RiskMAP, and I don't recall 23 specifically if anything was detected or reported and 24 how it might have been handled through that vehicle,</p>	<p style="text-align: center;">Page 292</p> <p>1 MR. LIMBACHER: Same objection. 2 A. I don't recall making such an inquiry. 3 Q. (By Mr. Gastel) Did you ever have 4 discussions with your sales team about why Opana was 5 being prescribed so heavily in Tennessee compared to 6 elsewhere in the country? 7 A. Again, I don't recall singling out 8 Tennessee as a particular topic to have discussed or 9 analyzed in that way. 10 Q. Did you ever ask your sales team to 11 investigate any potential diversion that was going on 12 in Tennessee as it related to Opana? 13 MR. LIMBACHER: Object to form. 14 A. We instructed our sales force to be on the 15 lookout for those kinds of activities regardless of 16 where they were. I don't recall specifically asking 17 about Tennessee. Again, we -- I don't recall such a 18 specific analysis being conducted. 19 Q. (By Mr. Gastel) As you sit here today, 20 are you aware of any legitimate medical reason why 21 patients in Tennessee required more prescriptions of 22 Opana than any other state in the country? 23 MR. LIMBACHER: Object to form and 24 foundation.</p>
<p style="text-align: center;">Page 291</p> <p>1 but that was -- that's where these kinds of things 2 might typically come to light. 3 Q. Are you aware of anyone at Endo conducting 4 any such investigation with regard to the high 5 prescription rates in Tennessee for Opana? 6 MR. LIMBACHER: Object to form and 7 foundation. 8 A. Again, I don't recall one way or another 9 if we did -- or if they did or if they didn't. 10 Q. (By Mr. Gastel) Did you ever report this 11 information to your suspicious order monitoring team? 12 A. I don't recall if that was done or not. 13 Certainly it was a cross-functional team, some of those 14 same folks would be participating in the annual 15 planning process, but I don't recall if we did a formal 16 query or not. 17 Q. But you don't ever recall going to 18 somebody on your suspicious order monitoring team or 19 your risk management team and saying, "Hey, we're 20 seeing a lot of prescriptions in Tennessee. Can you 21 guys go investigate that for us?" 22 MR. LIMBACHER: Object to form. 23 Q. (By Mr. Gastel) Did you ever make that 24 inquiry?</p>	<p style="text-align: center;">Page 293</p> <p>1 A. Again, I'm not a clinician to know whether 2 or not somebody is a legitimate patient or what's going 3 on there. Clearly there's a problem, but whether or 4 not -- my opinion on whether or not there's a 5 legitimate reason for that, I can't speculate. 6 Q. (By Mr. Gastel) During your time with 7 Endo, who was the regional sales director for the 8 region covering Tennessee, if you remember? 9 A. I don't remember. This was a question 10 asked earlier about where the kind of boundaries of the 11 regions were, and I don't recall who had Tennessee. 12 Q. Could we assume that Tennessee was in the 13 southeast region? 14 MR. LIMBACHER: Object to form. 15 Q. (By Mr. Gastel) I don't want to bust out 16 a map of the United States -- 17 A. No, but there's -- 18 Q. -- but I'll represent to you that we're 19 pretty southeast. 20 A. No, I agree. You'd be surprised, however, 21 when some pharma companies kind of mark up 22 their regions what gets included and what is a 23 southeast and, you know -- 24 Q. Sure.</p>

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<p>1 A. From Maine, for some reason, or 2 mid-Atlantic. And so it could be mid-Atlantic, it 3 could be southeast. I don't know -- I don't recall how 4 they configured it.</p> <p>5 MR. LIMBACHER: I know Pittsburghers who 6 would object to being designated in the Midwest.</p> <p>7 A. That's right.</p> <p>8 MR. GASTEL: I think I'm done with that 9 document. You can set it aside.</p> <p>10 Q. (By Mr. Gastel) I'm going to hand you a 11 document -- I just want to make sure I'm not handing 12 you mine. I want to hand you a document that I've 13 marked as Exhibit 33.</p> <p>14 [Exhibit Endo-Bingol-033 marked for 15 identification.]</p> <p>16 MR. GASTEL: This is Document 1. Can you 17 show the whole document on the screen for a second, 18 please?</p> <p>19 MR. BROWN: Sure.</p> <p>20 MR. GASTEL: Sorry. My Bates numbers have 21 been cut off, but for the record Bates number on this 22 document is EPI 000559487.</p> <p>23 Q. (By Mr. Gastel) And do you see that this 24 is an e-mail from you to Pamela Wright dated February</p>	<p>1 A. No. 2 Q. So if you flip to that page, what if 3 positioning project. It says emotional insights. Do 4 you see that?</p> <p>5 A. I do. 6 Q. And under the first bullet point it says 7 physicians are scared by opioids. What does that mean, 8 if you recall?</p> <p>9 MR. LIMBACHER: Object to form.</p> <p>10 A. I don't recall how this deck or what 11 this -- first of all, I don't recall the deck per se, 12 but how these kind of insights are derived, I don't 13 know what that really means other than I remember what 14 if was. It was a kind of internal just 15 brainstorming-type project.</p> <p>16 And we had a variety of people working, 17 perhaps including an ad agency or people from that and 18 people who were just kind of coming up with trying to 19 figure out how we want to position the product. I 20 don't know how these insights were derived, but that's 21 what's written here.</p> <p>22 Q. (By Mr. Gastel) And then the next bullet 23 point states true pain sufferers are displeased. Do 24 you have any idea what that means, true pain sufferers</p>
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<p>1 5th, 2008?</p> <p>2 A. Yes.</p> <p>3 Q. Who is Pamela Wright?</p> <p>4 A. I don't remember.</p> <p>5 Q. And you see that there's an attachment to 6 this e-mail entitled Opana brand positioning update 7 02-05-08. Did I read that correctly?</p> <p>8 A. Yes, you did.</p> <p>9 Q. And you direct Pamela to print six copies 10 for your meeting at 4:30. Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. And then attached to that is this 13 PowerPoint presentation. And again, I don't want to go 14 through the whole thing, and they're not -- there's no 15 numbers of these ones, but if you go to the slide 16 that's entitled what if positioning project.</p> <p>17 MR. LIMBACHER: Take your time and review 18 the document.</p> <p>19 A. Okay.</p> <p>20 Q. (By Mr. Gastel) You're familiar with this 21 document, sir?</p> <p>22 A. I don't recall it, but --</p> <p>23 Q. Any reason to believe that you didn't send 24 it?</p>	<p>1 are displeased?</p> <p>2 MR. LIMBACHER: Object to form.</p> <p>3 A. Again, I don't know how these insights 4 were derived and the characterization of these 5 statements, whether -- sometimes agencies come up with 6 their own kind of perspective and lingo and throw 7 things on a slide because they think they makes it 8 sound -- they're trying to make a distinction or a 9 nuanced point. But clearly the fact that we focus on 10 true pain sufferers, real pain patients who require the 11 product -- that's probably what that's getting at.</p> <p>12 Q. (By Mr. Gastel) When you say real pain or 13 when this thing says true pain, does that suggest that 14 there are people who are using Opana who are not in 15 true pain?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 Q. (By Ms. Scullion) Don't have real pain?</p> <p>18 A. No, it suggests that we want to focus on 19 the right -- selecting the appropriate patient for our 20 medication.</p> <p>21 Q. And then the last bullet point says Opana 22 has emerged and shows promise to help PCPs overcome 23 their fear and do what's right by themselves and their 24 patients. Did I read that correctly?</p>

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<p style="text-align: center;">Page 298</p> <p>1 A. That's what's written. 2 Q. And then if you flip to the next page. 3 It's entitled the role Opana can play. Did I read that 4 correctly? 5 A. That is what's written. 6 Q. And then it has kind of two columns. It 7 has an opportunities column and a relevant Opana 8 properties column. Did I read that correctly? 9 A. Yes. 10 Q. I want to direct your attention to the 11 second bullet point in the first blue bubble under the 12 relevant Opana properties. You with me? 13 A. Yes. 14 Q. And it says the active molecule has also 15 proven more difficult to extract from this matrix by 16 abusers than many ER opioids. Did I read that 17 correctly? 18 A. That's what's written. 19 Q. Is that bullet point meant to suggest that 20 Opana is -- that the active molecule in Opana is more 21 difficult to extract than other opioids? 22 MR. LIMBACHER: Object to form and 23 foundation. 24 A. Again, these slides seemingly produced by</p>	<p style="text-align: center;">Page 300</p> <p>1 and hypotheses, and putting them here would be more of 2 a way to think about how we might prove that through 3 additional studies, perhaps. But this was really more 4 positioning, thought-provoking comments from an ad 5 agency trying to help us create what the next kind of 6 position of the product might be. 7 Q. Did you -- do you recall at this meeting 8 suggesting that -- to anybody -- that this statement 9 lacked scientific support or wasn't true? 10 MR. LIMBACHER: Object to form. 11 A. As I said previously, I don't really 12 recall this meeting or this document as such. 13 Q. (By Mr. Gastel) I want to direct your 14 attention to the second blue bubble. Last bullet 15 point. Are you with me? 16 A. Yes. 17 Q. And it says because of its less attractive 18 target to abusers, it has less stigma. Did I read that 19 correctly? 20 A. Yes, you did. 21 Q. What does that mean to you? 22 MR. LIMBACHER: Object to form. 23 A. Well, on the face of it, it means again -- 24 it reinforces my opinion that this is developed by</p>
<p style="text-align: center;">Page 299</p> <p>1 probably an ad agency helping -- trying to help us 2 position the product, coming up with their 3 own literature searches or other inputs, and then 4 putting what they think might be relevant to helping 5 the product or the business. 6 Of course we never promoted the product on 7 extractability. Always promoting on the inherent 8 safety, risk profile of the product in all of our 9 promotional materials. This is an attempt by perhaps 10 an ad agency or internal brainstorming to kind of 11 figure out unconstrained what might we think about and 12 how do we even do studies or provide data that help to 13 support certain hypotheses. It has nothing to do with 14 actual promotional efforts. 15 Q. (By Mr. Gastel) Did this -- well, is this 16 statement true? 17 MR. LIMBACHER: Object to form. 18 A. I don't know if that statement is true 19 versus other ER opioids. The TIMERx technology had 20 some gelling properties to it, so it was difficult -- 21 it was reported to be difficult to extract. 22 Q. (By Mr. Gastel) Are you aware of any 23 scientific study that comes to that conclusion? 24 A. As I said, these were internal discussions</p>	<p style="text-align: center;">Page 301</p> <p>1 somebody who is not considering the fact that these are 2 thoughts or hypotheses that are not necessarily proven, 3 or using ideas and language that have not -- going 4 through a PMRB process, but rather blue skying, kind of 5 trying to figure out a position and how the product 6 might fit in a clinician's armamentarium. 7 In this case, this statement, I don't know 8 how to gauge the veracity of it. I don't -- it's a 9 positioning point that they are trying to -- that an ad 10 agency or somebody like that is trying to put onto 11 paper. 12 Q. (By Mr. Gastel) Is this a true statement? 13 MR. LIMBACHER: Object to form. 14 Foundation. 15 A. I don't know if -- I don't know how to 16 gauge whether it's truthful or not at the time it was 17 written. 18 Q. (By Mr. Gastel) I'll hand you a document 19 that we'll mark as Exhibit 34. 20 [Exhibit Endo-Bingol-034 marked for 21 identification.] 22 MR. GASTEL: There should be two. 23 MR. LIMBACHER: Thank you. 24 Q. (By Mr. Gastel) This is an e-mail chain</p>

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<p>1 from February 2011. Do you recall receiving this 2 document, sir?</p> <p>3 MR. ROSENBLUM: Sorry. Can we get a Bates 4 number, please?</p> <p>5 MR. GASTEL: Yeah, I'm sorry. It's Endo 6 Opioid MDL 00999189.</p> <p>7 MR. ROSENBLUM: Thank you.</p> <p>8 A. Okay.</p> <p>9 Q. (By Mr. Gastel) The e-mail chain begins 10 with an e-mail from -- and I'm sorry, I'm going to the 11 very back of the document. When I say very back of the 12 document, I mean the second page, actually. There you 13 go. Sorry about that.</p> <p>14 The e-mail begins with an e-mail from 15 Richard Schwartz, and it's sent to you and Gregory -- 16 and I'm not even going to try to pronounce that last 17 name. But do you see that, sir?</p> <p>18 A. Pyszczymuka.</p> <p>19 Q. Pyszczymuka?</p> <p>20 A. Yeah.</p> <p>21 Q. Thank you. Do you see that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Richard Schwartz apparently works for 24 WebMD. Do you recall that?</p>	<p>1 FYI -- I'm sorry. About 10 minutes later you then 2 forward this e-mail chain on to Brian Lortie. Do you 3 see that?</p> <p>4 A. Yes.</p> <p>5 Q. Who is Brian Lortie?</p> <p>6 A. He's my direct line manager at that point 7 in time.</p> <p>8 Q. And it says FYI, also I have asked Chris 9 Clark to lead an issues management task force on behalf 10 of Opana ER given that our rising profile will likely 11 require us to be prepared for additional scrutiny as 12 our market share continues to grow. Did I read that 13 correctly?</p> <p>14 A. Yes, you did.</p> <p>15 Q. Do you recall directing Chris Clark to 16 lead an issue management task force back in 2011?</p> <p>17 A. I don't recall it specifically.</p> <p>18 Q. Did you do that in response to this Men's 19 Health article?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. I don't recall specifically what -- it 22 appears to be yes, that I did, but I don't recall the 23 action taken.</p> <p>24 Q. (By Mr. Gastel) Do you recall reading the</p>
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<p>1 A. I don't recall Richard.</p> <p>2 Q. And he e-mails you, and it says -- the 3 second sentence -- I noticed an article in the March 4 issue of Men's Health, painkillers, I wanted to bring 5 to your attention. Your PR folks likely picked it up 6 already as it is a bit rough and mentions Opana and 7 Endo from the onset. Did I read that correctly?</p> <p>8 A. Yes, you did.</p> <p>9 Q. You don't know why Mr. Schwartz had 10 e-mailed you this article from Men's Health?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. I don't recall why he forwarded it.</p> <p>13 Q. (By Mr. Gastel) And that e-mail came in 14 at 11:15, and then one minute later I think you forward 15 it on to Mr. Chris Clark. Can you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Who is Chris Clark?</p> <p>18 A. Chris was in our corporate communications 19 group.</p> <p>20 Q. And then about 40 minutes later he e-mails 21 you and Gregory back and says, FYI, link to entire 22 article, and it has the web address. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And then 10 minutes later you also say</p>	<p>1 Men's Health article that he sent you?</p> <p>2 A. I recall as I was looking at it here the 3 photo that was in it, so yes, I'm sure I did read it, 4 but I don't recall what the article was saying today.</p> <p>5 Q. I'm going to hand you a document that I'll 6 mark as Exhibit 35. This document is a Men's Health 7 article that's referenced in this e-mail entitled 8 painkillers. Do you see that, sir?</p> <p>9 [Exhibit Endo-Bingol-035 marked for 10 identification.]</p> <p>11 A. Yes, I do.</p> <p>12 Q. Do you recall reviewing this when this was 13 forwarded to you in 2011?</p> <p>14 MR. LIMBACHER: Object to form. Asked and 15 answered.</p> <p>16 A. Again, I don't recall actually reading it, 17 but I do -- I assume I did.</p> <p>18 Q. (By Mr. Gastel) The article details the 19 fatal overdose of Brett Lute. And I want to direct 20 your attention to the second page in the third -- 21 fourth paragraph down beginning Opana, even when taken 22 as prescribed. And it states -- are you with me, sir?</p> <p>23 A. Yes.</p> <p>24 Q. And it states Opana, even when taken as</p>

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<p>1 prescribed, has such high potential for abuse and 2 dependence that the Drug Enforcement Administration 3 puts it in the same category as cocaine. Did I read 4 that correctly?</p> <p>5 A. You read it correctly, but the statement 6 is incorrect.</p> <p>7 Q. What's wrong with the statement?</p> <p>8 A. I believe cocaine is considered a Class I 9 narcotic. Long-acting opioids such as Opana ER, 10 Class -- or Schedule II.</p> <p>11 Q. And then it says but that hasn't stopped 12 Endo from promoting the drug directly to consumers 13 through its website. That was a true statement, you 14 were promoting Opana directly to consumers through your 15 website in 2011; correct?</p> <p>16 MR. LIMBACHER: Object to form.</p> <p>17 A. I believe that's correct.</p> <p>18 Q. (By Mr. Gastel) Do you re -- and then it 19 states, hello, my name is Bill, and I am a 40-year-old 20 construction worker who developed low back pain, it 21 says, next to a photo of a heavyset man in jeans and 22 work boots. Are you like Bill? Talk to your doctor. 23 Did I read that correctly?</p> <p>24 A. Yes, you did.</p>	<p>1 A. Yes. By that definition of what misuse 2 and abuse is, this would qualify.</p> <p>3 Q. (By Mr. Gastel) I want to direct your 4 attention to the next page. Third paragraph down, 5 beginning America has a new drug problem. Are you with 6 me?</p> <p>7 A. Yes.</p> <p>8 Q. America has a new drug problem. It's 9 being facilitated by white-coated pharmacists in 10 neighboring drug stores and delivered by letter 11 carriers in convenient mail-order envelopes. Did I 12 read that correctly?</p> <p>13 MR. LIMBACHER: Objection.</p> <p>14 A. Yes, you read it correctly.</p> <p>15 Q. (By Mr. Gastel) Sometimes drugs are 16 pushed across counters in cash-only pain clinics or 17 passed among addicts who sell part of their stashes to 18 buy more drugs. Did I read that correctly?</p> <p>19 A. You read it correctly.</p> <p>20 Q. Whatever the delivery method, the fatal 21 overdoses that resulted have increased by almost 22 fivefold since 1990. Did I read that correctly?</p> <p>23 A. You read it correctly.</p> <p>24 Q. Most of the increase is due to</p>
<p style="text-align: center;">Page 307</p> <p>1 Q. And that appears to be a quote from the 2 Endo website in 2011. Do you recall that portion of 3 your website?</p> <p>4 MR. LIMBACHER: Object to form.</p> <p>5 A. Yes, I do.</p> <p>6 Q. (By Ms. Scullion) And then it says the 7 same promotional website warns patients not to drink 8 alcohol while taking Opana because doing so can result 9 in a fatal overdose. And that's true, drinking alcohol 10 with Opana can result in a fatal overdose; correct?</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 A. Drinking alcohol with opioids can result 13 in a fatal overdose. In this case, it was particularly 14 unfortunate that this individual also broke a tablet in 15 half, which could have also given a more bolus dose 16 than the product was designed to give.</p> <p>17 So this is certainly a sad event, but this 18 fellow drinking alcohol and breaking the tablet is 19 probably not a very -- it was a very toxic combination 20 of events.</p> <p>21 Q. (By Mr. Gastel) And this would be an 22 example of an individual abusing and misusing Opana; 23 right?</p> <p>24 MR. LIMBACHER: Object to form.</p>	<p style="text-align: center;">Page 309</p> <p>1 prescription medications. In 18 states, the number of 2 deaths caused by drugs now exceeds the number of motor 3 vehicle deaths. Did I read that correctly?</p> <p>4 A. You read that correctly.</p> <p>5 Q. When you looked at this in 2011, did it 6 cause you any pause with regard to your marketing and 7 selling efforts that these statistics about fatal 8 overdoses, increased prescription rates, and increased 9 death rates cause you any hesitation in your marketing 10 and sales efforts in 2011 --</p> <p>11 MR. LIMBACHER: Object to form.</p> <p>12 Q. (By Mr. Gastel) -- with regard to Opana?</p> <p>13 A. It made us want to double down on making 14 sure our reps were well-trained, making sure that the 15 product was being prescribed for appropriate use for 16 appropriate patients, and to adhere more stringently as 17 possible to all of our policies.</p> <p>18 We did -- an obligation to treat patients 19 who have a genuine need for pain management, and 20 marketing the product appropriately for those patients 21 was always our Number One concern.</p> <p>22 Q. Let's -- I want to follow up on that. In 23 your 2011 e-mail back to Brian Lortie, who I think you 24 said was your direct supervisor. This is back to</p>

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<p>1 Exhibit 33, the e-mail exchange.</p> <p>2 A. 34?</p> <p>3 Q. 34. I'm sorry. And this was after Chris</p> <p>4 Clark had sent you the link to the full Men's Health</p> <p>5 article. In that response back to Brian, you don't</p> <p>6 talk about making sure your sales force is trained</p> <p>7 correctly. You talk about growing your market share;</p> <p>8 right?</p> <p>9 MR. LIMBACHER: Objection to form.</p> <p>10 Misstates the evidence.</p> <p>11 A. I don't see any reference to market</p> <p>12 share -- excuse me. Market shares -- our market share</p> <p>13 is growing. We expect to have more scrutiny. It's not</p> <p>14 that we expect to grow market share any more as a</p> <p>15 result of this type of activity.</p> <p>16 I would also direct you to the message</p> <p>17 above in which we -- in which I wrote to Julie McHugh,</p> <p>18 who was Brian's boss, that we are doubling down in</p> <p>19 terms of Opana ER brand training. We've provided</p> <p>20 compliance-specific training at jump-start meetings in</p> <p>21 January, and in addition we are dedicating another</p> <p>22 general session time for the upcoming national sales</p> <p>23 meeting to stress the importance of regulatory and</p> <p>24 compliance. These are actions that we took very</p>	<p>1 Q. (By Mr. Gastel) And you do that by</p> <p>2 selling more of your product; correct?</p> <p>3 MR. LIMBACHER: Excuse me, counsel. I</p> <p>4 think you interrupted him. He was in the middle of his</p> <p>5 response.</p> <p>6 Q. (By Mr. Gastel) Sorry, I didn't mean to</p> <p>7 interrupt you. I thought you were done. I apologize.</p> <p>8 If you want to finish your answer, go ahead.</p> <p>9 A. No, it's always the goal of every brand</p> <p>10 team to grow their market share, regardless of the kind</p> <p>11 of product that you're selling.</p> <p>12 Q. And you do that by selling more Opana;</p> <p>13 right?</p> <p>14 MR. LIMBACHER: Object to form.</p> <p>15 A. Yes, technically. You can also do it if</p> <p>16 other things are happening in the market in terms of</p> <p>17 market share, but usually you take -- you grow your</p> <p>18 market share by taking more business from your</p> <p>19 competitor.</p> <p>20 Whether that's actually growing your</p> <p>21 business or growing through a shrinking pie, that you</p> <p>22 might increase your share without actually selling</p> <p>23 more -- but perhaps a technicality.</p> <p>24 Q. (By Mr. Gastel) I want to go back to the</p>
<p style="text-align: center;">Page 311</p> <p>1 seriously, and always responded in an ethical manner to</p> <p>2 these kinds of episodes.</p> <p>3 Q. (By Mr. Gastel) But your stated goal here</p> <p>4 in the February 9th, 2011, e-mail was to grow your</p> <p>5 market share; right? Sell more opioids?</p> <p>6 MR. LIMBACHER: Objection to form.</p> <p>7 Foundation. You've mischaracterized the document.</p> <p>8 A. No, I disagree with that characterization.</p> <p>9 The -- I'm simply stating that we will likely have more</p> <p>10 of a higher profile as a result of our market share</p> <p>11 growing; therefore, we needed to have a more intense</p> <p>12 discussion on how we're going to handle these things.</p> <p>13 On top of that, my e-mail above explains</p> <p>14 exactly some of the things that we were doing in order</p> <p>15 to mitigate these kinds of events. This is not about</p> <p>16 growing our -- I never referenced that we need to grow</p> <p>17 our market share more, but merely the fact that as our</p> <p>18 market share does grow, these types of things may</p> <p>19 become more common.</p> <p>20 Q. (By Mr. Gastel) But it was a goal at this</p> <p>21 point to grow your market share; right?</p> <p>22 MR. LIMBACHER: Objection to form.</p> <p>23 A. It's a goal every year to grow your market</p> <p>24 share, as --</p>	<p style="text-align: center;">Page 313</p> <p>1 Men's Health article. It is six pages in. I want to</p> <p>2 direct your attention to the last paragraph on that</p> <p>3 page. It's the next page, I'm sorry -- I think.</p> <p>4 You're on the right page. I think my tech guy is on</p> <p>5 the wrong page.</p> <p>6 MR. BROWN: Oh --</p> <p>7 Q. (By Mr. Gastel) I'm sorry. Yes. Yes,</p> <p>8 last page. I'm sorry, last paragraph, beginning he</p> <p>9 points to a study. Do you see? Are you with me?</p> <p>10 A. Yes.</p> <p>11 Q. The he is a reference to Dr. R. Aaron</p> <p>12 Adams of the Scioto County health commissioner, who's</p> <p>13 referenced in the previous paragraph. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And it says he, referencing Dr. Adams,</p> <p>16 points to a study by state officials that found that</p> <p>17 doctors in southern Ohio were writing far more</p> <p>18 prescriptions for painkillers than physicians in</p> <p>19 similar-size communities in the northwestern part of</p> <p>20 the state. Did I read that correctly?</p> <p>21 MR. LIMBACHER: Actually, I think it is</p> <p>22 says counties, not communities.</p> <p>23 MR. GASTEL: Sorry, let me reread that.</p> <p>24 Q. (By Mr. Gastel) He points to a study by</p>

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<p style="text-align: right;">Page 314</p> <p>1 state officials that found that doctors in southern 2 Ohio were writing far more prescriptions for 3 painkillers than physicians in similar-size counties in 4 the northwestern part of the state. Did I read that 5 correctly?</p> <p>6 A. Yes.</p> <p>7 Q. And those higher rates of prescriptions, 8 the researchers found, corresponded directly with 9 sharply higher death rates. Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. It says I've grown up here -- going to the 12 next page. I've grown up here and I've watched this 13 thing evolve, says Dr. Adams, looking over his reading 14 glasses as we sit in his medical office discussing the 15 prescription problem. Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. He concludes, the numbers don't lie. 18 We're dispensing too many of these drugs. Did I read 19 that correctly?</p> <p>20 A. Yes.</p> <p>21 Q. Do you agree with that statement from Dr. 22 Adams of the Scioto County health commissioner that the 23 problem is is that we're dispensing too many of these 24 drugs?</p>	<p style="text-align: right;">Page 316</p> <p>1 doing it. But just through my limited understanding of 2 what they were doing, that they wanted to remove the 3 old formulation in favor of the new formulation.</p> <p>4 Q. (By Mr. Gastel) And then they sought to 5 take the old formulation off the market because of 6 safety reasons; right?</p> <p>7 MR. LIMBACHER: Objection. Form. 8 Foundation, and it's well beyond the time when he no 9 longer worked at the company.</p> <p>10 Q. (By Mr. Gastel) Are you aware of that? 11 MR. LIMBACHER: Same objections. 12 A. Again, I'm not aware of all the details 13 and what they were doing with the two products. I just 14 know that they wanted to remove one in place of the new 15 improved -- what they thought was an improved version.</p> <p>16 Q. (By Mr. Gastel) And they wanted to remove 17 it because of safety reasons; right?</p> <p>18 MR. LIMBACHER: Objection. Form. 19 Foundation, and long after he was working at the 20 company.</p> <p>21 A. I don't know. I would have to direct you 22 to somebody in the organization who was there at that 23 time.</p> <p>24 MR. GASTEL: Sure. I think I'm largely</p>
<p style="text-align: right;">Page 315</p> <p>1 MR. LIMBACHER: Object to form. 2 A. I would agree that if these drugs are 3 being dispensed to people who are not pain patients, 4 then that would be a problem.</p> <p>5 Q. (By Mr. Gastel) And you knew that that 6 was going on throughout the country during your time 7 with Endo and selling Opana; correct?</p> <p>8 MR. LIMBACHER: Objection, form and 9 foundation. Misstates the evidence.</p> <p>10 A. I don't know where and to what extent any 11 misuse, abuse, or diversion was taking place, but that 12 was what our systems and RiskMAP were set up to help 13 detect and to help identify, and then we would -- the 14 company would react in accordance to those guidelines 15 and our RiskMAP.</p> <p>16 Q. (By Mr. Gastel) Are you aware that after 17 you left the company, Endo sought the FDA's approval to 18 take the Opana that you had on the market in 2011 off 19 the market because of safety reasons?</p> <p>20 MR. LIMBACHER: Object to form and 21 foundation.</p> <p>22 A. I'm aware that they attempted to -- well, 23 it was after I left the company. I don't know the 24 specifics of what they were doing and when they were</p>	<p style="text-align: right;">Page 317</p> <p>1 done, but can I take a five-minute break, look at my 2 notes, and I think that you can get off the hot seat.</p> <p>3 THE VIDEOGRAPHER: Off the record at 6:42 4 PM. 5 [A brief recess was taken.] 6 THE VIDEOGRAPHER: We're back on the 7 record at 6:53 PM.</p> <p>8 Q. (By Mr. Gastel) Mr. Bingol, before the 9 break we were talking about Endo's attempts to have the 10 FDA pull Opana ER original formulation off the market. 11 You had mentioned how you knew that that was happening. 12 How did you know that?</p> <p>13 A. I don't recall specifically. Just through 14 either some casual contact. I know as we were leaving, 15 they were contemplating different ways to submit the 16 product and what they might do as a result, but I 17 don't -- I was not part of that final decision, and I 18 did not know what logic or rationale they actually 19 offered the FDA.</p> <p>20 So just peripherally, just -- I'm not sure 21 how I came about understanding that other than, you 22 know, at the time I was there, they were always 23 debating about how they were going to introduce one 24 product -- the EN3288 product that we were working</p>

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<p>1 on -- how that would be introduced to the market.</p> <p>2 Q. And that's a product that would eventually</p> <p>3 become the Opana ER crush-resistant formulation; right?</p> <p>4 MR. LIMBACHER: Object to form and</p> <p>5 foundation.</p> <p>6 A. That is correct.</p> <p>7 Q. (By Mr. Gastel) And what were some of the</p> <p>8 things that were being discussed about why Endo would</p> <p>9 seek taking the original formulation off the market?</p> <p>10 MR. LIMBACHER: Object to form and</p> <p>11 foundation.</p> <p>12 A. Having a crush-resistant product was</p> <p>13 perceived to be safer, and therefore that would be the</p> <p>14 product that they would want to introduce into the</p> <p>15 market and replace the old product.</p> <p>16 Q. (By Mr. Gastel) And then after you left</p> <p>17 Endo, how did you become aware that they had filed with</p> <p>18 the FDA in an attempt to get the original formulation</p> <p>19 off the market?</p> <p>20 A. Again--</p> <p>21 MR. LIMBACHER: Object to form, and asked</p> <p>22 and answered.</p> <p>23 A. I don't recall how -- with whom I may have</p> <p>24 seen or talked with or through casual contact, or maybe</p>	<p>1 [Discussion off the record.]</p> <p>2 THE VIDEOGRAPHER: We're back on the</p> <p>3 record at 6:58 PM.</p> <p>4 QUESTIONS BY MR. LIMBACHER:</p> <p>5 Q. Good evening, Mr. Bingol. It's finally my</p> <p>6 opportunity to ask you a few questions. I know it's</p> <p>7 been a very long day. It's 7:00 at night here. I'm</p> <p>8 sure you're interested in getting home to your wife and</p> <p>9 to your dog, so I will not be asking you a whole lot of</p> <p>10 questions. But for the benefit of the jury, can you</p> <p>11 just tell us, where do you live, sir?</p> <p>12 A. I live in Kennett Square, Pennsylvania.</p> <p>13 Q. And do you have children?</p> <p>14 A. I do.</p> <p>15 Q. And how many kids do you have?</p> <p>16 A. I have three.</p> <p>17 Q. And tell us, because I'm not sure it was</p> <p>18 entirely clear, how long you worked at Endo. When were</p> <p>19 you employed at Endo Pharmaceuticals?</p> <p>20 A. I think around late May 2006 until June</p> <p>21 2011.</p> <p>22 Q. And tell us briefly about your education,</p> <p>23 please, sir.</p> <p>24 A. I have an MBA from Old Dominion University</p>
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<p>1 I even read something. I don't know if there was</p> <p>2 literature in a pink sheet or something. I don't</p> <p>3 recall how I retained that or knew that at that time.</p> <p>4 Q. (By Mr. Gastel) Where do you live, sir?</p> <p>5 A. Kennett Square, Pennsylvania.</p> <p>6 Q. Will you please give your address?</p> <p>7 A. 107 Merry Met Farm Drive, Kennett Square,</p> <p>8 Pennsylvania, 19348.</p> <p>9 Q. And who lives there with you, sir?</p> <p>10 A. My wife and my dog at the moment.</p> <p>11 Q. Any plans to move any time soon?</p> <p>12 A. No.</p> <p>13 Q. How long have you lived there?</p> <p>14 A. 15 years -- coming up on 15 years.</p> <p>15 MR. GASTEL: Mr. Bingol, I appreciate the</p> <p>16 time. We'll reserve the rest of our questions at</p> <p>17 trial, subject to our previous objection. I have no</p> <p>18 other questions.</p> <p>19 THE VIDEOGRAPHER: Are we going to</p> <p>20 switch -- you're going to have questions?</p> <p>21 MR. LIMBACHER: Yes, I'm going to ask a</p> <p>22 few questions.</p> <p>23 THE VIDEOGRAPHER: Off the record at 6:56</p> <p>24 PM.</p>	<p>1 in Norfolk, Virginia, and a bachelor's degree</p> <p>2 from Christopher Newport University in Newport News,</p> <p>3 Virginia.</p> <p>4 Q. And when did you receive your MBA from Old</p> <p>5 Dominion?</p> <p>6 A. That was in -- I would probably have to</p> <p>7 actually jog my memory on that, but 1995 or 1994.</p> <p>8 Q. Okay. And let's take a look at what you</p> <p>9 were previously questioned about that was marked as</p> <p>10 Exhibit Number 4. Is that a copy of a one-page CV that</p> <p>11 you prepared?</p> <p>12 A. It is.</p> <p>13 Q. And does that set forth your work</p> <p>14 experience?</p> <p>15 A. It does.</p> <p>16 Q. And briefly, if you could just walk us</p> <p>17 through your work experience in the pharmaceutical</p> <p>18 industry, starting with when you were employed as a</p> <p>19 U.S. brand director at AstraZeneca.</p> <p>20 A. I started my pharmaceutical career as a</p> <p>21 sales rep. I took the position and got sent out to a</p> <p>22 territory in West Virginia, and was working out in the</p> <p>23 Huntington, southern Ohio, eastern Kentucky region.</p> <p>24 After a little more than 18 months or so,</p>

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<p>1 I was promoted in-house and went to Boston, where at 2 that time it was not AstraZeneca but rather Astra USA, 3 which predated the mergers that created AstraZeneca. 4 From there I worked my way into brand management and up 5 to -- when I left, I was brand director on their 6 rhinitis franchise at AZ.</p> <p>7 Q. And where did you go next?</p> <p>8 A. From there I took a job in North Carolina 9 at a small company called aaiPharma, where I was a 10 senior director of marketing there for -- it was a 11 fledgling pharmaceutical operation. It was a small CRO 12 that wanted to also market their own ethical 13 pharmaceutical products.</p> <p>14 Q. And then did you come to Pennsylvania 15 after working at aaiPharma?</p> <p>16 A. Returned, actually. When I was with 17 AstraZeneca, they -- and after the merger to create 18 AstraZeneca, we all moved down from Boston to 19 Pennsylvania. I left Pennsylvania to go to aaiPharma 20 in North Carolina, and then we came back to roughly the 21 same area here at Kennett Square, and have been here 22 ever since.</p> <p>23 Q. And what did you do at Adolor Corporation 24 when you worked there from 2004 until about 2006?</p>	<p>1 were consistent with brand communication objectives, et 2 cetera.</p> <p>3 Q. You mentioned developing promotional 4 materials. Can you tell us just a little bit about how 5 that process worked at Endo?</p> <p>6 A. Yes. It was a very rigorous process, 7 actually. It was a cross-functional team again. The 8 primary vehicle for promotional materials creation, you 9 would create the -- outside of -- each brand team would 10 create their own materials but then have to bring them 11 through what we call the PMRB process, which was a 12 promotional review board for marketing materials. 13 Well, frankly, for all external materials.</p> <p>14 And it was led by legal, regulatory, and 15 medical. These were members that were always required 16 to be there. And then if you were submitting a piece, 17 you would also attend those types of meetings. But 18 that would be the mechanism by which the quality and 19 the compliant nature of the product of the materials 20 were always ensured through that process.</p> <p>21 Q. And once the promotional materials for 22 Opana ER went through that PMRB process internally at 23 Endo, would they then be sent to FDA?</p> <p>24 MS. SCULLION: Objection. Leading.</p>
<p style="text-align: center;">Page 323</p> <p>1 A. I was senior director of marketing there 2 for their -- they had a new class of product they were 3 developing to help treat the -- some of the side 4 effects of opioid medications.</p> <p>5 Q. Okay. And after Adolor, that's when you 6 were employed at Endo Pharmaceuticals?</p> <p>7 A. That's correct.</p> <p>8 Q. And tell us, what were you hired to do at 9 Endo starting in 2006?</p> <p>10 A. I was hired specifically to launch Opana 11 and Opana ER as a senior director of that book of 12 business.</p> <p>13 Q. And as the senior director for Opana ER at 14 Endo, what were your basic job responsibilities during 15 that period of time when you held that position?</p> <p>16 A. It's a fairly traditional marketing role. 17 Managing the business plan for the brand, which would 18 also lead to managing the commercial components of 19 developing a brand identity and promotional materials, 20 working cross-functionally to help set pricing and 21 contracting guidelines for the brand, working on life 22 cycle management opportunities, helping with sales 23 training, ensuring that the quality of the messages 24 that we're -- that the sales force was being trained on</p>	<p style="text-align: center;">Page 325</p> <p>1 A. Yes, it was Endo's standard practice and 2 requirement by the FDA that all promotional materials 3 used in the field eventually get sent to the FDA for 4 their review as needed.</p> <p>5 Q. (By Mr. Limbacher) Do you recall being 6 asked questions with regard to Endo's RiskMAP?</p> <p>7 A. I'm sorry. What do you mean? Today?</p> <p>8 Q. Yes, today. I'm sorry. Do you recall 9 being asked some questions with regard to and being 10 shown a copy of the RiskMAP document from June of 2007?</p> <p>11 A. Yes.</p> <p>12 Q. And as part of the RiskMAP, was there 13 something called the risk management team?</p> <p>14 A. Yes.</p> <p>15 Q. And were you occasionally a participant in 16 meetings of the risk management team at Endo with 17 regard to Opana ER?</p> <p>18 A. I was, I guess, an ad hoc member, so as 19 needed I would participate.</p> <p>20 Q. And let's take a look at what counsel 21 marked as Exhibit Number 19. Do you have that in front 22 of you, sir?</p> <p>23 A. I do.</p> <p>24 Q. And if you can look at the first page that</p>

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<p style="text-align: right;">Page 326</p> <p>1 has the title on it. Is -- tell me what this is. Is 2 this the results of some market research?</p> <p>3 A. Yes, it is.</p> <p>4 Q. And what's the date on this?</p> <p>5 A. December 2008.</p> <p>6 Q. And you recall being asked some questions 7 about certain pages in Exhibit Number 19?</p> <p>8 A. I recall lots of questions today on lots 9 of research, but yes, I --</p> <p>10 Q. I understand. Let me direct you 11 specifically to what's identified in the document as 12 Slide Number 10. It actually has a number on it of 13 E0914.12. Are you with me?</p> <p>14 A. Yes.</p> <p>15 Q. And this -- what's the title of this 16 particular slide?</p> <p>17 A. Key insights.</p> <p>18 Q. Do you recall being asked about whether or 19 not Endo had any market research on the issue of why 20 doctors might have this perception of Opana ER having a 21 low potential for abuse?</p> <p>22 A. Yes, I recall being asked.</p> <p>23 Q. And in connection with those questions, 24 were you shown what's set forth here on Slide Number 10</p>	<p style="text-align: right;">Page 328</p> <p>1 articulating one way that that perception might have 2 been created.</p> <p>3 Q. (By Mr. Limbacher) What did Endo say in 4 its promotional materials for Opana ER about whether or 5 not Opana ER had a low potential for abuse?</p> <p>6 A. We didn't refer to that at all in our 7 promotional materials. Our promotional materials were 8 always squarely focused on presenting the safety 9 information, with the black box warnings usually very 10 prominently, if not on the very first page, and 11 certainly fair balance provided throughout our 12 promotional pieces.</p> <p>13 And as I mentioned, through the PMRB 14 process, all pieces went through the internal review of 15 our legal, medical, and regulatory teams, and we never 16 promoted the idea that this was a less abusable opioid 17 to clinicians.</p> <p>18 Q. To your understanding, Mr. Bingol, did 19 Endo ever train its sales force to promote Opana ER as 20 having a low abuse potential?</p> <p>21 A. No, we did not do that.</p> <p>22 MR. LIMBACHER: That's all the questions I 23 have. Thank you very much.</p> <p>24 THE VIDEOGRAPHER: Off the record at 7:09</p>
<p style="text-align: right;">Page 327</p> <p>1 in Exhibit Number 19?</p> <p>2 A. I don't recall being shown this slide.</p> <p>3 Q. Can you read for us, please, the first 4 bullet point here as one of the key insights in this 5 market research?</p> <p>6 A. From the beginning?</p> <p>7 Q. Please.</p> <p>8 A. On the most -- one -- excuse me. It says 9 on the most important characteristics, physicians rated 10 Opana ER significantly lower than all other opioids on 11 insurance and formulary availability, and significantly 12 higher than all others on does not have reputation for 13 street abuse.</p> <p>14 Therefore, Opana ER's position in doctor's 15 minds is around the drug's lack of street value, 16 leading to a perception of lower potential for street 17 abuse.</p> <p>18 Q. Does this key insight from market research 19 from December of 2008 shed any light on why doctors 20 perceived Opana ER to have a low potential for abuse?</p> <p>21 MS. SCULLION: Objection. Foundation.</p> <p>22 A. Yes, I think as I testified earlier today, 23 as a matter of fact, that these kind -- perception can 24 be created a number of different ways, and this is</p>	<p style="text-align: right;">Page 329</p> <p>1 PM. 2 [A brief recess was taken.] 3 THE VIDEOGRAPHER: We're back on the 4 record at 7:16 PM.</p> <p>5 QUESTIONS BY MS. SCULLION:</p> <p>6 Q. Mr. Bingol, welcome back. Counsel asked 7 you about Exhibit 19, and you testified -- he asked you 8 can you read us -- read for us, please, the first 9 bullet point here as one of the key insights in market 10 research? Do you recall reading the key insight from 11 Exhibit 19?</p> <p>12 A. I do.</p> <p>13 Q. And then counsel asked you, does this key 14 insight from market shed any light on why doctors 15 perceive Opana ER to have a lower potential for abuse?</p> <p>16 Your response was, yes, I think as I 17 testified earlier today, as a matter of fact, that 18 these kinds of perception can be presented a number of 19 different ways, and this is articulating one way that 20 that perception might have been created.</p> <p>21 Do you remember that testimony?</p> <p>22 A. I do.</p> <p>23 Q. And that testimony was with respect to 24 doctors understanding that Opana ER had a -- did not</p>

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<p>1 have a reputation for street abuse at the time of the 2 research; correct?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. I'm sorry. Ask that question again, 5 please.</p> <p>6 Q. (By Ms. Scullion) Sure. What you looked 7 at in terms of the key insight --</p> <p>8 A. Yes.</p> <p>9 Q. -- was doctors understanding that Opana 10 ER did not have a reputation for street abuse at the 11 time that that research was undertaken; correct?</p> <p>12 MR. LIMBACHER: Object to form. Misstates 13 the evidence.</p> <p>14 A. My reading of that statement is that some 15 doctors perceived that. I don't know if that was a 16 true understanding or how they viewed it, but that was 17 a perception that they had, that patients weren't 18 coming in and necessarily asking for it by name the way 19 they might other products in the category.</p> <p>20 Q. (By Ms. Scullion) Can you turn to Exhibit 21 19 and go to Page E914.12? Do you have it in front of 22 you?</p> <p>23 A. Yes.</p> <p>24 Q. And what that first bullet point speaks to</p>	<p>1 Q. (By Ms. Scullion) And you knew that not 2 only had it been available in the past, it had been 3 available in oral formulation in the past; correct?</p> <p>4 A. It was an injectable and suppository. I 5 guess there was -- I don't really recall, to be honest 6 with you, but I assume there was perhaps an oral 7 formulation available.</p> <p>8 Q. (By Ms. Scullion) Did you ever --</p> <p>9 MR. LIMBACHER: I would caution the 10 witness not to speculate.</p> <p>11 Q. (By Ms. Scullion) You're aware, were you 12 not, of the history of oxymorphone in oral formulation 13 having been abused as a street drug, though, in the 14 1960s and 1970s; right? You're aware of that; right?</p> <p>15 MR. LIMBACHER: Object to form. Asked and 16 answered.</p> <p>17 A. I don't recall all of the historical 18 perspective of the molecule.</p> <p>19 MS. SCULLION: Can we have E563?</p> <p>20 Q. (By Ms. Scullion) I'm going to hand you 21 what's been marked as Exhibit Number 31. And Exhibit 22 31 -- I apologize -- the Bates numbers are cut off on 23 mine.</p> <p>24 MS. SCULLION: Thank you.</p>
<p style="text-align: center;">Page 331</p> <p>1 is not about patients coming in, asking for it by name, 2 but whether it has a reputation for street abuse; 3 correct?</p> <p>4 MR. LIMBACHER: Object to form. Misstates 5 the evidence.</p> <p>6 A. That's what it says.</p> <p>7 Q. (By Ms. Scullion) Okay. Now, you knew, 8 did you not, that in fact oxymorphone in oral 9 formulations did in fact have a history of street 10 abuse; correct?</p> <p>11 MR. LIMBACHER: Object to form. 12 Foundation.</p> <p>13 A. I'm sorry. A history as -- so I'm not 14 clear on your question. I'm sorry.</p> <p>15 Q. (By Ms. Scullion) Sure. You're aware, 16 were you not, that oxymorphone in oral formulation had 17 been abused as a street drug in the 1960s and 1970s?</p> <p>18 MR. LIMBACHER: Object to form and 19 foundation.</p> <p>20 A. I'm not clear on all the history of the 21 product or -- because as I mentioned before, it was an 22 older molecule, and I wasn't sure exactly when or how 23 it was previously in the marketplace, but certainly 24 oxymorphone was available in the past.</p>	<p style="text-align: center;">Page 333</p> <p>1 MR. LIMBACHER: Well, we're up to Exhibit 2 35.</p> <p>3 MS. SCULLION: Well, then let's mark it 4 35.</p> <p>5 MR. LIMBACHER: No, I think --</p> <p>6 MR. BROWN: 36.</p> <p>7 MR. GASTEL: I think you're 36.</p> <p>8 MR. LIMBACHER: Yeah, we've got up to 35.</p> <p>9 So is this 36?</p> <p>10 MS. SCULLION: It will be 36.</p> <p>11 Q. (By Ms. Scullion) Let me just remark 12 that, if you don't mind, Mr. Bingol. 13 [Exhibit Endo-Bingol-036 marked for 14 identification.]</p> <p>15 A. Oh, of course.</p> <p>16 Q. Thank you so much. It's 36. And Exhibit 17 36 is Bates-stamped Endo OR CID 00694084. And Mr. 18 Bingol, Exhibit 36 is a copy of a May 2011 Drug 19 Enforcement Administration drug intelligence brief from 20 the Philadelphia division intelligence program, 21 entitled Opana oxymorphone abuse. You see that; 22 correct?</p> <p>23 A. Yes, I see it.</p> <p>24 Q. And if you look in the details section on</p>

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<p>1 the first page of the brief, which is E563.2. Do you 2 see here that the DEA is explaining that -- in the 3 second sentence -- in the early 1970s, oxymorphone in 4 the form of Numorphan instant-release tablets was one 5 of the most sought-after and well-regarded opioids of 6 the Class IV drug-using community. See that?</p> <p>7 A. I see.</p> <p>8 Q. Popularly known as blues for their blue 9 coloring, the tablets contained very few insoluble 10 ingredients, making them extremely easy to inject, and 11 they were dangerously potent when used intravenously. 12 Blues were also considered to be especially euphoric, 13 better than heroin or morphine. Did I read that 14 correctly?</p> <p>15 A. You read it correctly.</p> <p>16 Q. And having read that -- those details 17 provided by the DEA, does that refresh your 18 recollection that oxymorphone in oral formulation had a 19 history of street abuse?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. Certainly it does now that I read it. I 22 simply didn't recall the parameters around which this 23 product was historically used or abused, but I have no 24 reason to doubt what's written here.</p>	<p>1 and Opana ER about the history of abuse and misuse of 2 oxymorphone in oral formulation?</p> <p>3 MR. LIMBACHER: Object to form.</p> <p>4 A. Again, this is a different formulation and 5 approved by the FDA. What we were marketing at the 6 time was approved as safe and effective. And 7 therefore, we promoted the product based on its 8 labeling, based on its safety -- black box warnings, 9 and always in compliance with the regulations that were 10 in place at the time.</p> <p>11 Q. (By Ms. Scullion) We discussed earlier 12 today the RiskMAP for Opana ER, and you recall that a 13 significant portion of that RiskMAP involved education 14 of health care providers with respect to prescribing of 15 long-acting opioids; correct?</p> <p>16 A. Correct.</p> <p>17 Q. And as part of that education, Endo could 18 have told health care providers about the specific 19 history of abuse for oxymorphone; correct?</p> <p>20 MR. LIMBACHER: Object to form.</p> <p>21 A. Endo promoted and displayed the black box 22 warnings prominently on all of its materials, 23 highlighting the risks of potential abuse, misuse, and 24 diversion.</p>
<p style="text-align: center;">Page 335</p> <p>1 Q. (By Ms. Scullion) You were aware of that 2 history of abuse when you were the product manager for 3 Opana ER; correct?</p> <p>4 MR. LIMBACHER: Object to form, and asked 5 and answered.</p> <p>6 A. Again, I don't recall the specifics of the 7 history of the product when I was there, but as I said, 8 I read and see what's written here, and I have no 9 reason to doubt it.</p> <p>10 Q. (By Ms. Scullion) And did Endo ever 11 specifically inform the doctors, nurses, physicians 12 assistants, health care providers it was calling on to 13 sell Opana and Opana ER about this history of street 14 abuse for oxymorphone?</p> <p>15 MR. LIMBACHER: Object to form.</p> <p>16 A. Endo promoted and always encouraged 17 physicians to be aware of the safety concerns and the 18 black box warning of the product, as approved by the 19 FDA, which approved this product as a safe and 20 effective option for patients requiring long-acting 21 opioids.</p> <p>22 Q. (By Ms. Scullion) But my question, sir, 23 was did Endo ever specifically inform the health care 24 providers that its sales reps were detailing on Opana</p>	<p style="text-align: center;">Page 337</p> <p>1 Q. (By Ms. Scullion) And that was for Opana 2 ER; correct -- the labeling for Opana ER? That's what 3 you were just referring to?</p> <p>4 A. For both products.</p> <p>5 Q. Okay. Separate and apart from the 6 labeling for Opana and Opana ER, Endo could have 7 educated health care providers about the history of 8 abuse for the oxymorphone molecule when it was sold in 9 oral formulation back in the 1960s and 1970s; right? 10 Could have done that?</p> <p>11 MR. LIMBACHER: Object to form. Calls for 12 speculation.</p> <p>13 A. Again, we have always promoted the product 14 in accordance with its label, and always providing the 15 appropriate safety information that was associated with 16 this product and this formulation.</p> <p>17 Q. (By Ms. Scullion) Right. I hear what 18 you're saying. It's not answering my question. My 19 question was not about Opana ER and Opana. Question 20 was about, could Endo have provided education to health 21 care providers about the history of abuse with the 22 oxymorphone molecule?</p> <p>23 MR. LIMBACHER: Same objection.</p> <p>24 A. The molecule in its form with Opana ER and</p>

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<p style="text-align: center;">Page 338</p> <p>1 a new IR formulation, not necessarily being available 2 in the market in the same formulation that was in the 3 1970s. I was not part of those decisions, but I don't 4 know what the rationale was, but we always promoted the 5 product on label with the correct safety information, 6 and we always made it prominent as part of our overall 7 promotion.</p> <p>8 So we never underplayed the risks of Opana 9 ER or Opana for that matter with respect to the 10 formulations and the products that were approved by the 11 FDA.</p> <p>12 Q. (By Ms. Scullion) I'm just going to ask 13 factually. Factually, did Endo ever sponsor a medical 14 education program that discussed the history of abuse 15 of the oxymorphone molecule back in the 1960s and 16 1970s; yes or no?</p> <p>17 MR. LIMBACHER: Objection. Form and 18 foundation.</p> <p>19 A. I don't know.</p> <p>20 Q. (By Ms. Scullion) Are you aware of Endo 21 ever having sent around any patient education brochures 22 educating patients as to the history of abuse of the 23 oxymorphone molecule back in the 1960s and 1970s; yes 24 or no?</p>	<p style="text-align: center;">Page 340</p> <p>1 A. Again, we promoted these products in 2 accordance with their safety data. These are not the 3 exact same product, the molecule in a different 4 formulation, and promoting the product in accordance 5 with the black box warnings, never underplaying the 6 risk associated with these products.</p> <p>7 Q. (By Ms. Scullion) Mr. Bingol, this is the 8 final question, and so I do want to have an answer to 9 it. I wasn't asking about promotion. I'm asking did 10 Endo ever send out a dear-doctor letter to health care 11 providers informing them there was in fact a history of 12 street abuse for the oxymorphone molecule back in the 13 1960s and 1970s? It's just a yes-or-no question.</p> <p>14 MR. LIMBACHER: Objection. Form and 15 foundation, and asked and answered.</p> <p>16 THE WITNESS: Not that I'm aware of.</p> <p>17 MS. SCULLION: Okay. Thank you.</p> <p>18 THE VIDEOGRAPHER: Off the record at 7:28 19 PM.</p> <p>20 [SIGNATURE RESERVED.]</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: center;">Page 339</p> <p>1 MR. LIMBACHER: Objection. Form and 2 foundation.</p> <p>3 A. I don't recall creating materials like 4 that for patients. The materials we did create were 5 always, again, compliant and providing the appropriate 6 risk information for patients who might be taking this 7 product.</p> <p>8 Q. (By Ms. Scullion) Did Endo provide any 9 training to its sales reps -- yes or no -- on the 10 history of abuse with respect to the oxymorphone 11 molecule in the 1960s and 1970s?</p> <p>12 MR. LIMBACHER: Objection. Form and 13 foundation.</p> <p>14 A. I don't recall that we did that.</p> <p>15 Q. (By Ms. Scullion) Did Endo ever send a 16 dear-doctor letter to health care providers informing 17 them that there was in fact a history of street abuse 18 for the oxymorphone molecule back in the 1960s and 19 1970s?</p> <p>20 MR. LIMBACHER: Objection. Form and 21 foundation. And Jen, I think we're out of time.</p> <p>22 MS. SCULLION: Okay.</p> <p>23 MR. LIMBACHER: He can answer the 24 question.</p>	<p style="text-align: center;">Page 341</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, MARK ARNDT, a Certified Shorthand 4 Reporter and Certified Court Reporter, do hereby 5 certify that prior to the commencement of the 6 examination, DEMIR BINGOL was sworn by me to testify 7 the truth, the whole truth and nothing but the truth.</p> <p>8 I DO FURTHER CERTIFY that the foregoing is a 9 true and accurate transcript of the proceedings as 10 taken stenographically by and before me at the time, 11 place and on the date hereinbefore set forth.</p> <p>12 I DO FURTHER CERTIFY that I am neither a 13 relative nor employee nor attorney nor counsel of any 14 of the parties to this action, and that I am neither a 15 relative nor employee of such attorney or counsel, and 16 that I am not financially interested in this action.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <hr/> <p>MARK ARNDT, CSR, CCR, RPR CSR No. 084-004711 CCR No. 1398</p>

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1
2 I, DEMIR BINGOL, the witness herein,
3 having read the foregoing testimony of the pages of
4 this deposition, do hereby certify it to be a true and
5 correct transcript, subject to the corrections, if any,
6 shown on the attached page.

7

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DEMIR BINGOL

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Sworn and subscribed to before me,

This _____ day of _____, 201_.

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Notary Public

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1 DEPOSITION ERRATA SHEET

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22 SIGNATURE: _____ DATE: _____

23 DEMIR BINGOL

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